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# *The* **NORTH CAROLINA REGISTER**

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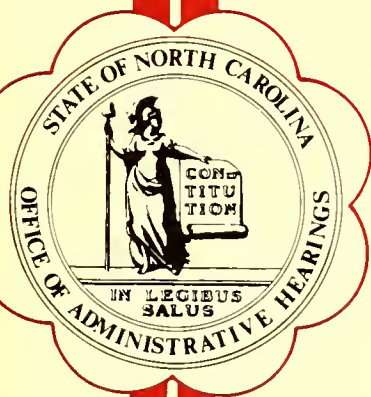
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**ISSUE DATE: OCTOBER 15, 1990**

**Volume 5 • Issue 14 • Pages 896-956**



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

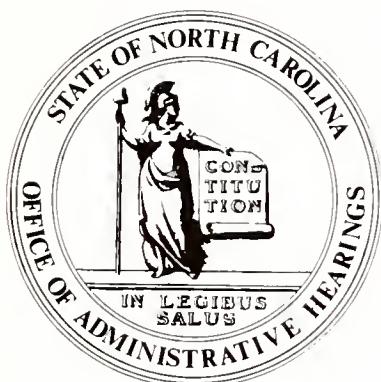
## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

**North Carolina Register.** Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

**North Carolina Administrative Code.** Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

# NORTH CAROLINA REGISTER



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# NORTH CAROLINA REGISTER

## *Publication Schedule*

*(April 1990 - December 1991)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
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12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.



## EXECUTIVE ORDERS

### EXECUTIVE ORDER NUMBER 124 GOVERNOR'S TASK FORCE ON PRISON CONSTRUCTION AND CONSOLIDATION

WHEREAS, an increasing inmate population has placed a tremendous burden upon our State correctional system, and

WHEREAS, the North Carolina General Assembly has appropriated \$75 million for new prison construction, and

WHEREAS, the General Assembly has directed that the question of issuance of \$200 million of general obligation bonds for new prison construction be placed on the November 1990 ballot, and

WHEREAS, I have concluded that it is in the State's best interest to establish a task force for the purpose of studying prison construction economies and consolidation,

THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment. There is hereby established the Governor's Task Force on Prison Construction and Consolidation.

Section 2. Membership. The task force shall consist of seven members to be appointed by the Governor and who shall serve at the pleasure of the Governor. The chairperson of the task force shall be selected from among the membership by the Governor and shall serve as chairperson at the pleasure of the Governor. The chairperson shall coordinate the activities of the task force.

Section 3. Purpose. The purpose of the task force is to study current prison facility construction costs and methods of construction, placement, costs of operation, support personnel/population ratios, and any other issues which may prove helpful in reaching a determination as to whether or not smaller prison units can be consolidated into larger prison units for more efficient operation and the most economical methods of construction of new facilities.

Section 4. Reporting. The task force shall report the findings of its study to the Governor no later than February 1, 1991.

Section 5. Administrative Support. Administrative support for the task force shall be provided by the Department of Correction.

Section 6. Expenses. Expenses shall be paid out of the Department of Correction's budget. Those members of the task force who are State

employees shall receive travel and subsistence in accordance with N.C.G.S. 138-6. Those members of the task force who are not State employees shall receive travel and subsistence in accordance with N.C.G.S. 138-5. Those members of the task force who are also members of the General Assembly shall receive travel and subsistence in accordance with N.C.G.S. 120-3.1(a)(2) - (a)(4).

No per diem will be paid to any task force member.

Section 7. Duration. This order shall be effective immediately and shall remain in effect until the purpose of the task force is accomplished.

Done in Raleigh, North Carolina this the 18th day of September, 1990.

### EXECUTIVE ORDER NUMBER 125 AMENDMENT OF EXECUTIVE ORDER NUMBER 71

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, it is ORDERED:

Executive Order Number 71, which established the Governor's Task Force on Rail Passenger Service and which was extended by Executive Order Number 94, is amended as follows:

In Section 1, the second sentence is amended to read, "The Task Force shall consist of twenty members appointed by the Governor to serve at the pleasure of the Governor."

In Section 1, the fifth sentence is amended to read, "The Secretary of Transportation or his designee shall serve as an ex-officio member and shall not be included in the twenty members to be appointed by the Governor."

This order shall be effective immediately.

Done in Raleigh, North Carolina this the 18th day of September 1990.

### EXECUTIVE ORDER NUMBER 126 GOVERNOR'S HIGHWAY BEAUTIFICATION COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment. There is hereby established the Governor's Highway Beautification Council.

Section 2. Membership. The Council shall consist of 10 members to be appointed by the Governor and who shall serve at the pleasure of the Governor. Seven members shall be appointed to represent each of the following geographic areas which are comprised of the following highway divisions:

- (1) one member from division 1 and division 2
- (2) one member from division 3 and division 4
- (3) one member from division 5 and division 6
- (4) one member from division 7 and division 8
- (5) one member from division 9 and division 10
- (6) one member from division 11 and division 12
- (7) one member from division 13 and division 14

Three members shall represent the State at large.

Section 3. Chairperson. The chairperson shall be chosen from among the membership of the Council by the Governor and shall serve as chairperson at the pleasure of the Governor. The chairperson shall coordinate the activities of the Council.

Section 4. Purpose. The purpose of the Council is to:

- (1) provide for citizens' input to the Department of Transportation on new and existing highway beautification programs;
- (2) make recommendations to the Department of Transportation regarding expenditures for the planting of wildflowers

and/or other flora along the State highways;

- (3) promote citizens' participation in the department's volunteer beautification programs; and
- (4) provide information to the citizens of North Carolina concerning highway beautification issues.

Section 5. Administrative Support. Administrative support for the Council shall be provided by the Department of Transportation's Beautification Program staff.

Section 6. Expenses. Expenses shall be paid out of the Department of Transportation's budget. Those members of the Council who are State employees shall receive travel and subsistence in accordance with N.C.G.S. 138-6. Those members of the Council who are not State employees shall receive travel and subsistence in accordance with N.C.G.S. 138-5. Those members of the Council who are also members of the General Assembly shall receive travel and subsistence in accordance with N.C.G.S. 120-3.1(a)(2) - (4).

No per diem will be paid to any council member.

Section 7. Effective Date. This order shall be effective immediately.

Done in Raleigh, North Carolina this the 18th day of September, 1990.

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services intends to amend rule(s) cited as 10 NCAC 14K .0103, .0327; 14M .0101, .0401; 14N .0701, .0703; 18D .0117 - .0119, .0121, .0208; 18M .0801 - .0802; 18Q .0713, .0812; repeal rule(s) cited as 10 NCAC 14K .0311, .0330 - .0332; 14N .0702; 18M .0823; adopt rule(s) cited as 10 NCAC 14N .0901 - .0905; 18D .0216 - .0217; 18L .0433 - .0434; 18M .0817, .0825 - .0838; and renumber rule(s) cited as 10 NCAC 18M .0817 - .0823.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted at 1:00 p.m. on November 14, 1990 at the Holiday Inn North, 3050 University Parkway, Winston-Salem, NC 27105.*

*Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Marilyn Brothers, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 325 N. Salisbury St., Raleigh, NC 27603, (919) 733-4774 by November 13, 1990. The hearing record will remain open for written comments from October 15, 1990 through November 13, 1990. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these Rules is also available from the same address.*

**CHAPTER 14 - MENTAL HEALTH: GENERAL**

**SUBCHAPTER 14K - CORE LICENSURE RULES  
FOR MENTAL HEALTH: MENTAL  
RETARDATION AND OTHER  
DEVELOPMENTAL DISABILITIES: AND  
SUBSTANCE ABUSE FACILITIES**

**SECTION .0100 - GENERAL INFORMATION**

**.0103 DEFINITIONS**

(c) The following terms shall have the meanings specified:

~~(47) "Isolation time-out" means the removal of a client from positive reinforcement to a separate room from which exit is barred~~

~~but which is not locked and where there is continuous supervision by staff.~~

~~(47)~~ (48) "Legend drug" means a drug that cannot be dispensed without a prescription.

~~(48)~~ (49) "License" means a permit to operate a facility which is issued by DFS under G.S. 122C, Article 2.

~~(49)~~ (50) "Medication" means a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.

~~(50)~~ (51) "Minor client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.

~~(51)~~ (52) "Neighborhood" - See "residential setting".

~~(52)~~ (53) "Nurse" means a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.

~~(53)~~ (54) "Operator" means the designated agent of the governing body who is responsible for the management of a licensable facility.

~~(54)~~ (55) "Parent" means the biological or adoptive mother or father of a minor client or person who has been appointed to serve as a surrogate parent.

~~(55)~~ (56) "Physical examination" means the procedures used by a physician or physician extender on behalf of a physician to determine the physiological and anatomical condition of the client. Physical examination also means medical examination.

~~(56)~~ (57) "Physician extender" means a nurse practitioner or a physician assistant approved to perform medical acts by the Board of Medical Examiners of the State of North Carolina.

~~(57)~~ (58) "Preschool age child" means a child from three through five years of age.

~~(58)~~ (59) "Private facility" means a facility not operated by or under contract with an area program.

~~(59)~~ (60) "Program evaluation" means the systematic documented assessment of program activity to determine the effectiveness, efficiency and scope of the system under investigation, to define its strengths and weaknesses and thereby to



provide a basis for informed decision-making.

- (60) ~~(61)~~ "Provider" means an individual, agency or organization that provides mental health, mental retardation or substance abuse services.
- (61) ~~(62)~~ "Psychiatric nurse" means an individual who is licensed to practice as a registered nurse in the State of North Carolina by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of experience, or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.
- (62) ~~(63)~~ "Psychiatric social worker" means an individual who holds a master's degree in social work from an accredited school of social work and has two years of clinical social work experience.
- (63) ~~(64)~~ "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed an accredited training program in psychiatry.
- (64) ~~(65)~~ "Psychotherapy" means a form of treatment of mental illness or emotional disorders which is based primarily upon verbal or non-verbal communication with the patient. Treatment is provided by a trained professional for the purpose of removing or modifying existing symptoms, of attenuating or reversing disturbed patterns of behavior, and of promoting positive personality growth and development.
- (65) ~~(66)~~ "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. These medications include, but are not limited to, antipsychotics, antidepressants, neuroleptics, lithium and minor tranquilizers.
- (66) ~~(67)~~ "Qualified alcoholism professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism counseling.
- (67) ~~(68)~~ "Qualified developmental disabilities professional" means an individual holding

at least a baccalaureate degree in a discipline related to developmental disabilities, and at least two years of supervised habilitative experience in working with the mentally retarded or otherwise developmentally disabled or holding a baccalaureate degree in a field other than one related to developmental disabilities and having three years of supervised experience in working with the mentally retarded or otherwise developmentally disabled.

- (68) ~~(69)~~ "Qualified drug abuse professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of drug abuse counseling.
- (69) ~~(70)~~ "Qualified mental health professional" means any one of the following: psychiatrist, psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with at least a master's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.
- (70) ~~(71)~~ "Qualified nutritionist" means an individual who has a Master's degree in nutrition, nutrition education or public health nutrition and who may or may not be a registered dietitian.
- (71) ~~(72)~~ "Qualified substance abuse professional" means an individual who is:
  - (A) certified by the North Carolina Substance Abuse Professional Certification Board; or
  - (B) a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling.
- (72) ~~(73)~~ "Registered dietitian" means an individual who has successfully completed a national examination for the Commission on Dietetic Registration and maintains registration with that commission through approved continuing education activities and events.



- (73) (74) "Rehabilitation" means training, care and specialized therapies undertaken to assist a client to reacquire or maximize any or all lost skills or functional abilities.
- (74) (75) "Research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hypothesis, or to explicate some principle or effect. The term "research" as used in this document means research which is not standard or conventional; involves a trial or special observation which would place the subject at risk for injury (physical, psychological or social injury), or increase the chance of disclosure of treatment; utilizes elements or steps not ordinarily employed by qualified professionals treating similar disorders of this population; or is a type of procedure that serves the purpose of the research only and does not include treatment designed primarily to benefit the individual.
- (75) (76) "Residential setting" means a living area or zone in which the primary purpose is family residential living and which may be located in an area zoned either urban residential or rural.
- (76) (77) "Respite discharge" means that point in time when no additional incidents of respite service are anticipated and the client record is closed.
- (77) (78) "Respite episode" means an uninterrupted period of time during which a client receives respite services. The episode may vary in length from one hour or less to one month.
- (79) "Restraint" means the limitation of a client's freedom of movement by:
- (A) physical hold for the purpose of subduing the client;
  - (B) "mechanical restraint" which is the use of mechanical devices for the purpose of controlling behavior including, but not limited to, cuffs, ankle straps, sheets, or restraining shirts; or
  - (C) "protective restraint" which is the use of protective devices to provide support and safety for weak and feeble clients, or to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, etc. Such devices may include posey vests, geri-chairs, table top chairs or soft ties.
- (80) "Restrictive facility" means a facility which employs the use of mechanical restraint or seclusion in order to restrict a client's freedom of movement. A judicial

determination as specified in G.S. 122C-223 and G.S. 122C-232 is required for minor clients and incompetent adult clients who are admitted to a restrictive facility.

- (78) (81) "Screening" means an assessment service which provides for a brief face-to-face appraisal of each individual who presents himself for services, in order to determine the nature of the individual's problem and his need for services. Screening may also include referral to other appropriate community resources.
- (82) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (79) (83) "Secretary" means the Secretary of the Department of Human Resources or designee.
- (80) (84) "Severely physically disabled person" means for the purpose of ADAP (Adult Developmental Activity Program) a person:
- (A) who has a severe physical disability which seriously limits his functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills);
  - (B) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end stage renal disease; and
  - (C) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.
- (81) (85) "Sheltered employment" means a facility's provision of work and work training by:
- (A) subcontracting from industries in the community and bringing work to the facility to be performed; or
  - (B) manufacturing its own products in the facility.
- Clients served in a sheltered employment model are those who consistently achieve earning levels exceeding one-half of the minimum wage but who are not ready for independent employment activities.

- (82) ~~(86)~~ "Staff member" means any individual who is employed by the facility.
- (83) ~~(87)~~ "Substantially mentally retarded person" means for the purpose of ADAP a person who is mentally retarded to the degree of seriously limiting his functional capabilities, whose habilitation or rehabilitation can be expected to extend over a period of time, and including:
- (A) moderately mentally retarded persons;
  - (B) severely mentally retarded persons;
  - (C) profoundly mentally retarded persons; or
  - (D) mentally retarded persons with a handicapping condition so severe as to lack the potential for employment at this time, either in a sheltered or competitive setting. In addition, such individuals must have a deficit in self-help, communication, socialization or occupational skills and be recommended by the vocational rehabilitation counselor for consideration of placement in an ADAP.
- (84) ~~(88)~~ "Support services" means services provided to enhance an individual's progress in his primary treatment habilitation program.
- (85) ~~(89)~~ "Supported employment" means a day night service which involves paid work in a job which would otherwise be done by a non-disabled worker. Supported employment is carried out in an integrated work site where a small number of people with disabilities work together and where the work site is not immediately adjacent to another program serving persons with disabilities. It includes intensive involvement of staff working with the individuals in these integrated settings.
- (86) ~~(90)~~ "Toddler" means an individual from one through three years of age.
- (87) ~~(91)~~ "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.
- (88) ~~(92)~~ "Twenty-four hour facility in which medical care is an integral component" means a facility in which:
- (A) the medication needs of clients may be evaluated, medication prescribed and laboratory tests ordered to assist in the diagnosis, treatment and monitoring of problems associated with the mental health, mental retardation or other developmental disabilities or substance abuse disorder of clients; and

- (B) proper referral of the client is made to medical specialists when needed.

Statutory Authority G.S. 122C-3; 122C-26; 143B-147.

#### SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

##### .0311 MANAGING CLIENTS' FUNDS IN 24-HOUR FACILITIES (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

##### .0327 COMPLIANCE WITH CLIENTS' RIGHTS STATUTES

(a) The governing body ~~Each facility~~ shall ~~have~~ develop and implement policies and procedures that ensure compliance with client rights requirements as specified in 10 NCAC 14P, Q, R and S. Division publication CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02 01 91). ~~to ensure the rights of clients. These procedures shall be in accordance with the following statutes, as applicable:~~

- (1) ~~G.S. 122C-51. Declaration of policy on clients' rights;~~
- (2) ~~G.S. 122C-52. Right to confidentiality;~~
- (3) ~~G.S. 122C-53. Exceptions; client;~~
- (4) ~~G.S. 122C-54. Exceptions; abuse reports and court proceedings;~~
- (5) ~~G.S. 122C-55. Exceptions; care and treatment;~~
- (6) ~~G.S. 122C-56. Exceptions; research and planning;~~
- (7) ~~G.S. 122C-57. Right to treatment and consent to treatment;~~
- (8) ~~G.S. 122C-58. Civil rights and civil remedies;~~
- (9) ~~G.S. 122C-59. Use of corporal punishment;~~
- (10) ~~G.S. 122C-60. Use of physical restraints or seclusion;~~
- (11) ~~G.S. 122C-61. Treatment rights in 24 hour facilities;~~
- (12) ~~G.S. 122C-62. Additional rights in 24 hour facilities;~~
- (13) ~~G.S. 122C-65. Offenses relating to clients;~~
- (14) ~~G.S. 122C-66. Protection from abuse and exploitation; reporting; and~~
- (15) ~~G.S. 130A-113. Confidentiality of information regarding communicable diseases and conditions.~~

(b) The governing body shall develop and implement additional policies and procedures necessary to ensure compliance with North Carolina General Statutes 122C-51 through 122C-62.

122C-65, 122C-66 and 130A-143, in each of its facilities.

*Statutory Authority G.S. 122C-26; 122C-51 through 122C-62; 122C-65; 122C-66; 130A-143; 143B-147.*

- .0330 USE OF MECHANICAL RESTRAINT OR SECLUSION (REPEALED)
- .0331 USE OF ISOLATION TIME-OUT (REPEALED)
- .0332 USE OF PROTECTIVE RESTRAINT (REPEALED)

*Statutory Authority G.S. 122C-26; 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.*

#### SUBCHAPTER 14M - LICENSURE RULES FOR MENTAL RETARDATION/DEVELOPMENTAL DISABILITIES FACILITIES

##### SECTION .0100 - SPECIALIZED COMMUNITY RESIDENTIAL CENTERS FOR INDIVIDUALS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

###### .0101 SCOPE

A specialized community residential center is a facility which provides care, treatment and developmental training for mentally retarded or otherwise developmentally disabled, multi-handicapped individuals, children, adolescents, or adults, over an extended period of time, through integration of medical services and close supervision. The service is designed to assist each individual to attain his highest level of independent living skills while receiving care for his physical needs. This facility may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF/MR).

*Statutory Authority G.S. 122C-26; 143B-147.*

##### SECTION .0400 - GROUP HOMES FOR CHILDREN WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

###### .0401 SCOPE

A group home for children with mental retardation or other developmental disabilities is a residential facility which provides a normalized home environment for children who are not living with their families. This facility is designed to assist each child in residence to attain his highest level of independent living skills through developmental training integrated with family and community activities to prepare the child for residence with his own family or other less restrictive environment. This facility may be cer-

tified as an Intermediate Care Facility for the Mentally Retarded (ICF/MR).

*Statutory Authority G.S. 122C-26; 143B-147.*

#### SUBCHAPTER 14N - LICENSURE RULES FOR SUBSTANCE ABUSE FACILITIES

##### SECTION .0700 - OUTPATIENT FACILITIES FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

###### .0701 SCOPE

(a) Outpatient is a periodic service for individuals who abuse alcohol or other drugs. Outpatient services include individual, group, family, educational and vocational counseling. All substance abuse clients must be detoxified prior to admission to an outpatient facility other than outpatient detoxification services where available.

(b) Intensive outpatient is a periodic service for individuals who need more intensive treatment for substance abuse but who do not need residential treatment. Intensive outpatient services shall have structured programs, including individual, group and family counseling, recreational therapy, peer groups, substance abuse and life skills education. Each intensive outpatient client must participate in the service a minimum of five hours per week.

*Statutory Authority G.S. 122C-26; 143B-147.*

###### .0702 HOURS OF OPERATION FOR INTENSIVE OUTPATIENT FACILITY (REPEALED)

*Statutory Authority G.S. 122C-26; 143B-147.*

###### .0703 STAFF REQUIRED

(a) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

(b) The staff of an intensive outpatient facility shall include a minimum of one full-time or equivalent certified alcoholism, drug abuse or substance abuse counselor for every 16 or fewer clients.

(c) If the facility falls below the prescribed ratio in Paragraph (b) of this Rule, and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 26 months from the date of employment.

*Statutory Authority G.S. 122C-26; 143B-147.*



**SECTION .0900 - DAY TREATMENT  
FACILITIES FOR INDIVIDUALS WHO ARE  
SUBSTANCE ABUSERS**

**.0901 SCOPE**

(a) Day treatment services are day/night services provided in a group setting for individuals with substance abuse problems. A day treatment facility shall only provide detoxification services if the facility also meets the requirements of 10 NCAC 14N .0400.

(b) Day treatment is provided for individuals who need more structured treatment for substance abuse than that provided by outpatient treatment, and may serve as an alternative to a 24 hour treatment program. Day treatment services, other than detoxification, shall have structured programs, including individual, group, and family counseling, recreational therapy, peer groups, substance abuse education, life skills education, and continuing care planning.

(c) A client enrolled in a day treatment service shall be provided a structured program of treatment for a minimum of five hours or more per week. The number of hours per day, the number of days per week, and the number of weeks of treatment will vary specific to the individual client's needs.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0902 HOURS OF OPERATION FOR THE  
DAY TREATMENT FACILITY**

Each day treatment facility shall operate at least three days per week, but not fewer than 12 hours per week, 12 months per year.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0903 STAFF REQUIRED**

(a) The staff of the day treatment facility shall include a minimum of one full-time or equivalent certified alcoholism, drug abuse or substance abuse counselor for every 16 or fewer clients.

(b) If the facility falls below the prescribed ratio in Paragraph (a) of this Rule, and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 26 months from the date of employment.

(c) In facilities which provide services to minors, a minimum of two staff members shall be present with minor clients at all times, and a minimum ratio of one staff member to each eight or fewer clients shall be maintained. In the event that only one minor client is in the facility, only one staff member is required to be present.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0904 STAFF TRAINING**

(a) Each facility staff member shall have a training plan completed annually and documented along with documentation of attendance at training events.

(b) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) cardio-pulmonary resuscitation;
- (2) seizure management;
- (3) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (4) basic first aid;
- (5) alcohol and other drug withdrawal symptoms;
- (6) medication education and administration; and
- (7) symptoms of secondary complications to alcoholism and drug addiction.

(c) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

(d) Each direct care staff member in a day treatment facility that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0905 EMERGENCY MEDICAL SERVICES**

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provisions for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad, or other trained medical personnel within 20 minutes of the facility.

*Statutory Authority G.S. 122C-26; 143B-147.*

**CHAPTER 18 - MENTAL HEALTH: OTHER  
PROGRAMS**

**SUBCHAPTER 18D - CONFIDENTIALITY  
RULES**

**SECTION .0100 - GENERAL RULES**

**.0117 PURPOSE AND SCOPE**

(a) The purpose of the rules in this Subchapter is to set forth requirements for those who collect, store and disseminate information on individuals who are served by area and state facilities. The

rules shall be used in conjunction with the confidentiality requirements specified in G.S. 122C-51 through 122C-56.

(b) Area and state facilities governed by these Rules include offices of the Division; regional psychiatric hospitals, mental retardation centers and ~~alcoholic rehabilitation~~ alcohol and drug abuse treatment centers; state special care centers; schools for emotionally disturbed children; area programs and their contract agencies; and other public and private agencies, institutions or programs which are operated by or contract with the Division for Mental Health, ~~Mental Retardation~~ Developmental Disabilities or Substance Abuse Services. All employees, students, volunteers or other individuals who have access to or control over confidential information in these facilities or programs shall abide by these Rules. However, local hospitals that are accredited by the Joint Commission on Accreditation of ~~Hospitals~~ Healthcare Organizations (JCAHO) which contract with an area facility or provide services for a state facility shall be excluded from these Rules and the confidentiality policies of that accredited hospital shall apply. In addition, education records generated by Alcohol and Drug Education Traffic Schools (ADETS) and Drug Education Schools (DES) are excluded from these Rules since the records maintained by such schools are considered public records.

*Statutory Authority G.S. 122C-52; 131E-67; 143B-147.*

#### .0118 GENERAL PROVISIONS

(a) Area or state facilities or individuals with access to or control over confidential information shall take affirmative measures to safeguard such information.

(b) Confidential information may not be released or disclosed except in accordance with G.S. 122C-51 through 122C-56 and the rules in this Subchapter.

(c) Confidential information regarding substance abusers shall be released or disclosed in accordance with the federal ~~rules~~ regulations 42 C.F.R. Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records", unless the rules in this Subchapter are more restrictive in which case the rules in this Subchapter shall be followed.

(d) Confidential information regarding infants and toddlers receiving early intervention services who have or who are at risk for atypical development, developmental delay or developmental disability shall be released or disclosed in accordance with the federal regulations 34 C.F.R. Part 300, Subpart E, Sections 300.560 through 300.575, unless the rules in this Subchapter are

more restrictive in which case the rules in this Subchapter shall be followed.

(e) ~~(d)~~ Questions regarding interpretation of these Rules shall be directed to the Client Records ~~Coordinator in the Client Information Branch Consultant in the Institution Management Support Section~~ of the Division. ~~When ever necessary, the Client Records Coordinator shall process any request for an official opinion from the Attorney General's office. The Client Records Coordinator shall maintain copies of official opinions from the Attorney General's office relative to these Rules.~~

*Statutory Authority G.S. 122C-52; 131E-67; 143B-147; 150B-14.*

#### .0119 DEFINITIONS

(a) The following terms shall have the meanings specified in G.S. 122C-3, ~~and~~ 122C-4 and 122C-53:

- (1) "Area board",
- (2) ~~(4)~~ "Area facility",
- (3) ~~(2)~~ "Confidential information",
- (4) ~~(3)~~ "Guardian",
- (5) "Internal client advocate",
- (6) ~~(4)~~ "Legally responsible person",
- (7) ~~(5)~~ "Next of kin",
- (8) ~~(6)~~ "Provider of support services", ~~and~~
- (9) "Secretary", ~~and~~
- (10) ~~(7)~~ "State facility".

(b) As used in this Subchapter, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "Client Record" means any documentation made of confidential information. For the purpose of the rules in this Subchapter, this also includes confidential information generated on an individual who was not admitted but received a service from an area or state facility.
- (2) "Clinical Staff Member" means a mental health, ~~mental retardation~~ developmental disabilities or substance abuse professional who provides active treatment/habilitation to a client.
- (3) "Confidential information" as defined in G.S. 122C-3 includes but is not limited to photographs, videotapes, audiotapes, client records, reimbursement records, verbal information relative to clients served, client information stored in automated files, and clinical staff member client files.
- (4) ~~(3)~~ "Delegated Employee" means anyone designated by the facility head to carry out the responsibilities established by the rules in this Subchapter.

- (5) ~~(4)~~ "Disclosure of Information" means the dissemination of confidential information without consent.
- (6) "Division" means Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
- (7) ~~(5)~~ "Minor Client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.
- (8) ~~(6)~~ "Parent" means the biological or adoptive mother or father of a minor. Whenever "parents" are legally separated or divorced or have never been married, the "parent" legally responsible for the minor shall be the "parent" granted custody or either parent when joint custody has been granted.
- (9) ~~(7)~~ "Person Standing in Loco Parentis" means one who has put himself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.
- (10) ~~(8)~~ "Release of Information" means the dissemination of confidential information with consent.
- (11) ~~(9)~~ "Signature" means signing by affixing one's own signature; or by making one's mark; or impressing some other sign or symbol on the paper by which the signature may be identified.

Statutory Authority G.S. 122C-3; 122C-4; 122C-52; 131E-67; 143B-147.

#### .0121 OWNERSHIP OF RECORDS

(a) All records, including those which contain confidential information which are generated in connection with the performance of any function of an area or state facility, are the property of the facility.

(b) Original client records may be removed from an area or state facility premises only under the following conditions:

- (1) in accordance with a subpoena to produce document or object or other order of the court or when client records are needed for district court hearings held in accordance with Article 5 of Chapter 122C of the N.C. General Statutes;
- (2) whenever client records are needed for treatment habilitation or audit purposes, records may be transported within an area facility or between state facilities;
- (3) ~~in life threatening situations, in situations where the facility determines it is not fea-~~

sible or practical to copy the client record or portions thereof, client records may be securely transported to a local health care provider, provided the record remains in the custody of a delegated employee;

- (4) whenever a client expires at an area or state facility and an autopsy is to be conducted, the client record may be transported to the agency wherein the autopsy will be performed provided the agency complies with Rule .0124 of this Subchapter.

(c) Area facilities shall develop written policies and procedures regarding fees for the reproduction of client records.

(d) Except as otherwise provided in this Rule, state facilities shall charge uniform fees for the reproduction of client records which do not exceed the cost of reproduction, postage and handling. The uniform fee shall be ~~three dollars (\$3.00)~~ five dollars (\$5.00) for up to three pages and fifteen cents (\$.15) for each additional page. State facilities shall not charge for the reproduction of client records in the following types of situations:

- (1) professional courtesy when records are requested by physicians, psychologists, hospital or other health care providers;
- (2) third party payors when the state facility will derive direct financial benefits;
- (3) providers of support services as defined in G.S. 122C-3;
- (4) attorneys representing the Attorney General's office and Special Counsel;
- (5) other situations determined by the state facility to be for good cause; ~~or~~
- (6) when indigent clients request pertinent portions of their client records necessary for the purpose of establishing eligibility for SSI, SSADIB, Medicaid, or other legitimate aid; or
- (7) whenever state facilities utilize private photocopy services wherein the photocopy service, rather than the state facility, bills the recipient of the information based on the usual and customary fee established by the copy service.

Statutory Authority G.S. 122C-52; 122C-54; 122C-224.3; 122C-268; 122C-286; 131E-67; 143B-147.

#### SECTION .0200 - RELEASE OF CONFIDENTIAL INFORMATION WITH CONSENT

##### .0208 CONSENT FOR RELEASE

(a) When consent for release of information is obtained by an area or state facility covered by



the rules in this Subchapter, a Consent for Release form containing the information set out in this Paragraph shall be utilized. The consent form shall contain the following information:

- (1) client's name;
  - (2) name of facility releasing the information;
  - (3) name of individual or individuals, agency or agencies to whom information is being released;
  - (4) information to be released;
  - (5) purpose for the release;
  - (6) length of time consent is valid;
  - (7) a statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance on the consent;
  - (8) signature of the client or the client's legally responsible person;
  - (9) signature of individual witnessing consent; and
  - (10) date consent is signed.
- (b) Unless revoked sooner by the client or the client's legally responsible person, a consent for release of information shall be valid for a period not to exceed one year ~~however, except under the following conditions:~~
- (1) a consent to continue established financial benefits shall be considered valid until cessation of benefits; or ~~revocation of consent by the client or client's legally responsible person.~~
  - (2) a consent for release of information to the Division, Division of Motor Vehicles, the Court and the Department of Correction for information needed in order to reinstate a client's driving privilege shall be considered valid until reinstatement of the client's driving privilege.
- (c) ~~(b)~~ A consent for release of information received from an individual or agency not covered by the rules in this Subchapter does not have to be on the form utilized by area or state facilities; however, the receiving area or state facility shall determine that the content of the consent form substantially conforms to the requirements set forth in this Rule.
- (d) ~~(c)~~ A clear and legible photocopy of a consent for release of information shall be considered to be as valid as the original.
- (e) Confidential information relative to a client with HIV infection, AIDS or AIDS related conditions shall only be released in accordance with G.S. 130A-143. Whenever authorization is required for the release of this information, the consent shall specify that the information to be released includes information relative to HIV infection, AIDS or AIDS related conditions.

*Statutory Authority G.S. 122C-52; 122C-53; 130A-143; 131E-67; 143B-147.*

#### **.0216 RELEASE TO AREA BOARD MEMBERS**

Area board members may have access to confidential information only upon written consent of the client or the client's legally responsible person or pursuant to other exceptions to confidentiality as specified in G.S. 122C-53 through 122C-55. Area board members may have access to non-identifying client information.

*Statutory Authority G.S. 122C-52; 122C-53; 131E-67; 143B-147.*

#### **.0217 RELEASE OF INFORMATION BY INTERNAL CLIENT ADVOCATES**

Upon request by the Secretary, internal client advocates may disclose to the Secretary or his designee confidential information obtained while fulfilling monitoring and advocacy functions.

*Statutory Authority G.S. 122C-53; 131E-67; 143B-147.*

### **SUBCHAPTER 18L - PROGRAM COMPONENT OPERATIONAL STANDARDS**

#### **SECTION .0400 - CLIENT RIGHTS**

##### **.0433 PROTECTION OF CLIENT RIGHTS**

(a) Each area program shall adopt policies and procedures to assure the protection of client rights for clients served by the area program and its contract agencies as specified in CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02/01/91), adopted in accordance with G.S. 150B-14(c).

(b) Clients of the area program and its contract agencies shall be informed of their rights and the procedures for appeal if they feel that their rights have been infringed.

(c) Each staff member of the area program and of contract agencies shall be informed of client rights and procedures for their protection.

*Statutory Authority G.S. 122C-61 through 122C-63; 143B-147.*

##### **.0434 CLIENT RIGHTS COMMITTEE**

(a) Each area board shall establish at least one Client Rights Committee. The area board shall also develop written policies and procedures which delineate:

- (1) composition, size, and method of appointment of committee membership;

- (2) training and orientation of committee members;
  - (3) frequency of meetings;
  - (4) conducting meetings and voting procedures to be followed;
  - (5) identification of all area program components and contract agencies which utilize intervention procedures specified in CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02/01/91), Subchapter 14R, Section .0100;
  - (6) monitoring the effectiveness of existing and proposed methods and procedures for protecting the rights of clients;
  - (7) requirements for routine reports to the area board regarding seclusion, restraint and isolation time out; and
  - (8) other operating procedures.
- (b) The Client Rights Committee shall oversee the implementation of the following client rights protections:
- (1) compliance with G.S. 122C, Article 3;
  - (2) compliance with the provisions of Division publications CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02/01/91) and CONFIDENTIALITY RULES, APSM 45-1 (01/10/86), adopted in accordance with G.S. 150B-14(c); and
  - (3) establishment of a review procedure for any of the following which may be brought by clients, client advocates, parents, guardians, staff or others:
    - (A) client grievances;
    - (B) alleged violations of the rights of individuals or groups, including cases of alleged abuse, neglect or exploitation;
    - (C) concerns regarding the use of restrictive procedures; or
    - (D) failure to provide needed services that are available in the area program.
- Nothing herein stated shall be interpreted to preclude or usurp the statutory authority of a county department of social services to conduct an investigation of abuse, neglect, or exploitation or the statutory authority of the Governor's Advocacy Council for Persons with Disabilities to conduct investigations regarding alleged violations of client rights.
- (c) The area board shall retain ultimate responsibility for the assurance of client rights and shall select one or more of the following strate-

gies for meeting the requirement for a Client Rights Committee that shall include consumer and family membership:

- (1) The area board may elect to serve in special sessions as the Client Rights Committee;
  - (2) The area board may elect to establish a subcommittee of the Board to serve as the Client Rights Committee; or
  - (3) The area board may elect to appoint one or more special Client Rights Advisory Committees to serve in an advisory capacity to the area board. The Client Rights Committee shall not include any person employed by the area program or any of its contract agencies.
- (d) The Client Rights Committee shall maintain minutes of its meetings and, if option (c)(2) or (c)(3) is selected, shall file at least an annual report of its activities with the area board. Clients shall not be identified by name in neither minutes nor written or oral reports.
- (e) The area board may transfer to the Client Rights Committee the responsibility for the Intervention Advisory Committee, as specified in Division publications CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02/01/91), adopted in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 122C-64; 143B-147.*

#### SUBCHAPTER 18M - REQUIRED SERVICES

##### SECTION .0800 - ADULT DEVELOPMENTAL ACTIVITY PROGRAMS (ADAP) FOR INDIVIDUALS WITH SUBSTANTIAL MENTAL RETARDATION, SEVERE PHYSICAL DISABILITIES OR OTHER SUBSTANTIAL DEVELOPMENTAL DISABILITIES

###### .0801 SCOPE

(a) An adult developmental activity program (ADAP) is a day/night service which provides organized developmental activities for adults with substantial mental retardation, severe physical disabilities or other substantial developmental disabilities to prepare the individual to live and work as independently as possible. The activities and services of an ADAP are designed to adhere to the principles of normalization and community integration aimed at increasing age-appropriate actions, images, and appearance of the individual.

(b) An ADAP offers a diverse variety of specific services and activities. These include vocational evaluation, vocational training,



remunerative employment, personal and community living skill development, adult basic education and long-term support, follow-up and case management. Support services to clients' families and consultation with the clients' employers and other involved agencies may also be provided. ~~training in the cognitive, communication and motor skills, use of leisure time, vocational evaluation and adjustment and work activity training.~~ The amount of time devoted to these areas varies considerably depending upon the needs of the clients served.

(c) Support services to families and consultation with other involved agencies ~~may~~ is also be provided. included.

(d) The rules contained in this Section are applicable to three specific models of ADAP services as follows:

(1) ADAP - Facility Based. The majority of the ADAP activities in this model, whether vocational or developmental in nature, are carried out on the premises of a site specifically designed for this purpose.

(2) ADAP - Supported Employment. The only ADAP services provided by the operator are those related to supported employment. All of the training activities in this model occur in the setting at the location where the client actually works or lives, not in a specialized facility maintained by the operator.

(3) ADAP - Supported Employment - Long-Term Support. Clients served in this model have successfully completed the intensive initial training phase of supported employment which is sponsored by and the responsibility of the Division for Vocational Rehabilitation Services. They are receiving those long-term support services which are targeted towards maintenance in the job and residential setting and independent functioning in the community. These are services which are the responsibility of the Division. Examples of such long-term support services include "refresher" vocational training to ensure that existing job skills are not lost, training in new job performance expectations, community living skill training, and consultation to other employees, employers, and families, and residential program staff.

(e) A single facility may operate more than one of these models. Rules .0817, .0818, .0819, .0824 through .0835 are applicable to all three models. The remaining rules are applicable to the individual model as indicated in the rule catchlines.

Whatever the model provided, it is the ADAP service that is subject to certification, not the location of the business or organization where the client is placed for work.

Statutory Authority G.S. 122C-26; 143B-147.

#### .0802 COMPLIANCE REVIEW

(a) An ADAP that is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) in the Activity Service track or an ADAP which also incorporates work activity training in its program and which is accredited by CARF in the Activity Service and Personal and Social Adjustment, Supported Employment, Work Adjustment or Work Service tracks shall be reviewed for compliance with 10 NCAC 18K (Contract Agency Management Standards) and 10 NCAC 18L (Program Component Operational Standards) and with the provisions of this Section as follows:

(1) Each ADAP which is operated by the area program shall comply with all of the standards delineated in 10 NCAC 18L; and each ADAP which is under contract with an area program shall comply with the standards delineated in 10 NCAC 18K and 10 NCAC 18L; and

(2) Each ADAP, whether operated by the area program or under contract with an area program, shall be reviewed for compliance with the following rules in this Section: Rules .0803, .0817, .0822 and .0823, Rules .0817, .0818 and .0824.

(b) The ADAP shall submit to the funding agency a copy of its most recent CARF Facilities Survey Report, and, if applicable, the Plan of Compliance and subsequent notice of CARF's acceptance of the correction(s) made in accordance with the plan.

Statutory Authority G.S. 143B-147.

#### .0817 CLIENT ELIGIBILITY

Clients served shall be eligible for ADAP grant-in-aid regardless of financial resources with the exception of a client whose work earnings exceed one-half the federal statutory minimum wage over a consecutive 90-day period. With prior approval of the appropriate area director or designee, clients who are participating in a supported employment program authorized by the Division may have earnings in excess of one-half the minimum wage. Eligibility for clients in non-supported employment settings whose earnings have exceeded over one-half the minimum wage for over 90 consecutive days may be extended for up to one calendar year if supported



employment options are not available locally and the client is ineligible for other services from the Division of Vocational Rehabilitation, or if the client's social, behavioral or vocational skill deficits preclude participation in supported employment options and results in ineligibility for other vocational rehabilitation services. The eligibility extension shall occur through the existing client recertification process carried out by the designated area program qualified developmental disabilities professional (QDDP) as referenced in 10 NCAC 18M .0800. Requests for the extension shall be based on a joint case review involving a representative of the involved ADAP, the local VR unit and the area program. The request shall identify the specific skill deficits precluding eligibility for supported employment or other vocational rehabilitation services and include plans for addressing these deficits. The certification extension may be reapplied for a maximum of two times only. The same criteria and procedures shall be followed in each instance of reapplication as are required for the initial extension.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0818 ~~.0817~~ ADMISSION CRITERIA AND PROCEDURES**

(a) Each ADAP shall have an admissions committee.

(b) A pre-admission staffing shall be held for each client considered for admission to the ADAP. During the staffing, the committee shall consider information available regarding the client's medical, psychological and social histories.

(c) Results of the pre-admission staffing shall be documented and forwarded to the referral agency. A representative of the ADAP admissions committee shall notify the client.

(d) Each ADAP shall have written admission policies and procedures. These policies and procedures shall include at least the following:

- (1) Each client shall be referred to the Division of Vocational Rehabilitation Services with written documentation of this referral.
- (2) A qualified mental retardation professional of the area program shall obtain a written recommendation from the vocational rehabilitation counselor recommending consideration for a placement in the ADAP.
- (3) A qualified developmental disabilities professional of the area program shall certify the eligibility of each client for the ADAP service taking into consideration at least the provision of (b), (d)(1) and (2) of this Standard.

*Statutory Authority G.S. 122C-51; 143B-147.*

**.0819 ~~.0818~~ CLIENT HANDBOOK**

(a) Each ADAP shall have a client handbook including, but not limited to, information about services and activities.

(b) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.

(c) Each client shall be given a handbook and the handbook shall be reviewed with the client.

*Statutory Authority G.S. 122C-51; 143B-147.*

**.0820 ~~.0819~~ SUSPENSIONS AND DISMISSALS**

**.0821 ~~.0820~~ CLIENT EVALUATION REPORT**

**.0822 ~~.0821~~ INDIVIDUAL PROGRAM PLAN AND GOAL PLAN**

*Statutory Authority G.S. 143B-147.*

**.0823 ~~.0822~~ CLIENT RE-EVALUATION AND CLIENT RECERTIFICATION (REPEALED)**

*Statutory Authority G.S. 122C-51; 143B-147.*

**.0824 ~~.0823~~ ANNUAL ADAP ASSESSMENT**

Each ADAP shall conduct an annual internal assessment of the program's compliance with the standards and shall develop a written plan of action that addresses each identified deficiency.

*Statutory Authority G.S. 122C-51; 143B-147.*

**.0825 PHYSICAL PLANT REQUIREMENTS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0604.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0826 PROGRAM DIRECTOR**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0606.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0827 CLIENT EVALUATOR**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0608.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0828 ACTIVITIES AND SERVICES**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0609.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0829 SAFETY EDUCATIONAL PROGRAM**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0610.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0830 SAFETY COMMITTEE**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0611.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0831 BUSINESS PRACTICES**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0612.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0832 ACCIDENT REPORTING**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0613.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0833 PROMOTION OF CLIENTS' RIGHTS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0614.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0834 USE OF PUBLIC TRANSPORTATION  
BY CLIENTS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0615.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0835 SUSPENSIONS AND DISMISSALS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0616.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0836 FACILITY BASED ADAP: HOURS OF  
OPERATION**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0618.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0837 FACILITY BASED ADAP:  
CLIENT/STAFF RATIOS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0619.

*Statutory Authority G.S. 122C-26; 143B-147.*

**.0838 SUPPORTED EMPLOYMENT/LONG  
TERM SUPPORT: CLIENT/STAFF  
RATIOS**

Each ADAP facility not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0620.

*Statutory Authority G.S. 122C-26; 143B-147.*

**SUBCHAPTER 18Q - GROUP HOMES FOR  
ADULTS WITH MENTAL RETARDATION OR  
OTHER DEVELOPMENTAL DISABILITIES**

**SECTION .0700 - GROUP HOMES FOR  
ADULTS WITH MENTAL RETARDATION OR  
OTHER DEVELOPMENTAL DISABILITIES**

**.0713 CROSS-REFERENCE TO MANAGING  
CLIENTS' FUNDS**

(a) Each group home which is not subject to licensure under G.S. 122C, Article 2 shall comply with the requirements ~~set forth in 10 NCAC 14K .0311~~ as specified in 10 NCAC 14S .0106, Division publication CLIENT RIGHTS IN COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 95-2 (02/02/91).

(b) Each client, when necessary, shall be provided training in money management.

*Statutory Authority G.S. 143B-147.*

**SECTION .0800 - APARTMENT LIVING  
PROGRAMS FOR ADULTS WITH MENTAL  
RETARDATION OR OTHER  
DEVELOPMENTAL DISABILITIES**

**.0812 CROSS-REFERENCE TO MANAGING  
CLIENTS' FUNDS**

Each apartment living program not subject to licensure under G.S. 122C, Article 2 shall comply with the requirements regarding managing clients' funds ~~elinated in 10 NCAC 14K .0311~~ as specified in 10 NCAC 14S .0106, Division publication CLIENT RIGHTS IN COMMU-

NITY MENTAL HEALTH, DEVELOP-  
MENTAL DISABILITIES AND  
SUBSTANCE ABUSE SERVICES, APSM  
95-2 (02/02/91).

Statutory Authority G.S. 143B-147.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 26B .0111 and 10 NCAC 26H .0202.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on November 14, 1990 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, North Carolina 27603.*

*Comment Procedures: Written comments concerning this proposed amendment must be submitted by November 14, 1990, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, N.C. 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.*

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26B - MEDICAL ASSISTANCE PROVIDED

SECTION .0100 - GENERAL

.0111 INPATIENT PSYCHIATRIC HOSPITAL SERVICES

Treatment in a state mental hospital to a person at least 21 but less than 65 years of age shall be covered, except as federal regulations provide to the contrary.

Inpatient psychiatric hospital services are covered in private psychiatric hospitals for services provided in beds licensed as inpatient psychiatric or substance abuse hospital beds and in State mental hospitals, for recipients under age 22 and over age 65 as defined in Social Security Act 1905 (a) and (h) and 1861 (f). The admitting hospital is responsible for obtaining certification in accordance with Subpart D of 42 CFR 441. Admission to all out of state psychiatric hospitals including those enrolled as border psychiatric

hospitals are subject to prior approval for necessity to go out of state. Services in out of state hospitals are provided only to the same extent and under the same conditions as medical services provided in North Carolina.

Statutory Authority G.S. 108A-25(b); 108A-54.

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

.0202 RATE SETTING METHODS

(a) An annual rate is determined for each hospital to be effective for dates of service beginning each July 1. Rates are derived from cost reports for a base-year period or from previous appeal decisions. The initial base-year is the cost-reporting period ending in 1981. Services provided prior to July 1, 1986 are reimbursed at rates not to exceed the rates effective July 1, 1985.

(b) The prospective rate is the sum of the operating rate component and the capital rate component. The operating rate component is determined by inflating Medicaid base-year operating per diem costs to the rate year. Operating costs include the cost of interns and residents services. The Medicare limit on hospital inpatient general routine operating costs cannot be exceeded in establishing Medicaid base-year costs. The capital rate component is the higher of the base-year capital per diem costs or the most recent capital rate as adjusted upon previous appeal. The base year capital cost per diem is computed by dividing total capital costs allocated to inpatient services by total inpatient days. The operating rate component is determined by inflating the Medicaid base-year operating cost per diem to the rate year. The base-year operating cost per diem is computed by subtracting the capital cost per diem from the total base-year Medicaid cost per diem. Base-year Medicaid costs include inpatient routine, special care, and ancillary services, malpractice insurance, interns' and residents' services, and other covered inpatient services.

(c) Inflation factors for the operating rate components are based on the National Hospital Market Basket Index and the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management.

(d) This plan intends to encourage the use of lower-cost hospitals for routine illnesses. Hospitals with rates at or below the all-hospital mean will be reimbursed at the full prospective rate without day limits. Hospitals with rates higher than the mean rate of all hospitals will be reim-



bursed at the full prospective rate up to an annual days limit. Days in excess of the limit will be reimbursed at the mean rate of hospitals below the all-hospital mean.

(e) The prospective rate for a new hospital is set at the lower of:

- (1) The all-hospital mean rate; or
- (2) Seventy-five percent of the hospital's projected average gross inpatient revenue per day during the first year of operations.

This provision applies to a hospital if a cost report covering at least twelve months of normal operations has not been filed. This rate is the base-year rate until a desk-reviewed cost report covering at least twelve months of normal operations is available.

(f) Out-of-state hospital services are reimbursed according to the rates established by the Medicaid Agency of the State in which the hospital is located. If a usable rate cannot be obtained, services are reimbursed at 75 percent of billed charges or a negotiated rate not to exceed reasonable cost.

(g) The initial base-year for psychiatric hospitals is the cost reporting period ending in 1989, or 1990 if a full year cost report is available as of August 15, 1990. The total base-year per diem cost for a hospital is limited to the statewide median per diem cost in the base-year, excluding the amortization of start-up costs. The provisions of Rule .0202(d) do not apply to psychiatric hospitals. State-operated hospitals are not included in the calculation of the statewide median per diem cost.

(h) To assure compliance with the separate upper payment limit for State-operated facilities, the hospitals operated by the Department of Human Resources will be reimbursed their reasonable costs in accordance with the provisions of the Medicare Provider Reimbursement Manual.

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

#### TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Environmental Management (Environmental Management Commission) intends to amend rules cited as 15A NCAC 2B .0201, .0211 - .0212, .0216.

*The proposed effective date of this action is March 1, 1991.*

*The public hearing will be conducted at 2:00 p.m. on November 16, 1990 at the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.*

**Comment Procedures:** Notice is hereby given of a public hearing to be held by the North Carolina Department of Environment, Health, and Natural Resources on behalf of the Environmental Management Commission (EMC) concerning modifications to the State's surface water quality classifications and standards rules as follows.

*This public hearing is being held for the purpose of receiving public comment on the proposals to modify surface water classifications and standards rules (Title 15A NCAC 2B .0201; .0211; .0212 and .0216). The EMC previously had approved numerous changes to the subject rules during 1989. Most of these changes were made as part of a federally mandated review of water quality standards that must be completed every three years, known as the Triennial Review. Changes to North Carolina's Antidegradation Policy, Fresh Surface Water and Tidal Saltwater Classifications and Standards rules, and the Outstanding Resource Waters rule (rules 15A NCAC 2B .0201, .0211, .0212, and .0216, respectively) were adopted at the EMC's July 13, 1989 meeting. Additional changes to the Outstanding Resource Waters rule (15A NCAC 2B .0216) were adopted at the September 14, 1989 meeting. Several issues which were originally addressed during the public hearing proceedings for these rules changes have remained unresolved, as described briefly, below.*

*There are three types of changes being proposed. The first type consists of simply correcting mistakes, such as typographical errors, that have occurred during the rulemaking administrative process. The second type involves clarifying the EMC's clearly intended procedure for implementing marina requirements as was stated in the public record (but not in rules, at the time) during the rulemaking proceedings for reclassifying coastal Outstanding Resource Waters (see proposed amendments for the Outstanding Resource Waters rule, 15A NCAC 2B .0216). The third type involves clarifying existing procedures for implementing certain water quality standards, as discussed during rulemaking proceedings and as required for final approval of the standards by the U.S. Environmental Protection Agency [see proposed amendments for the Action Level rule, 15A*

NCAC 2B .0211(b)(4)]. In order to meet EPA's schedule for approval of the proposed rule amendments, IT WILL BE NECESSARY FOR THE 30 DAY PUBLIC NOTICE PERIOD PRIOR TO THE PUBLIC HEARING DATE TO SERVE ALSO AS THE PUBLIC COMMENT PERIOD. THIS REPRESENTS A CHANGE FROM THE ROUTINE PROCEDURE USUALLY FOLLOWED BY THE EMC IN CONDUCTING RULEMAKING PUBLIC HEARINGS. CONSEQUENTLY, THE PUBLIC COMMENT PERIOD WILL CLOSE ON NOVEMBER 19, 1990. The proposed amendments will not result in any changes in current policy or operating procedures. If adopted, these rules should become effective March 1, 1991.

Comments, data, statements and other information may be submitted in writing prior to the public hearing through November 19, 1990 (inclusive), or may be presented orally at the hearing. So that all persons desiring to speak may do so, statements may be limited to three minutes at the discretion of the hearing officer. The statutory authority for these actions is as follows: N.C. General Statutes 143-214.1; 215.3(a)(1) and (3). Further information on the final proposals may be obtained by writing or calling; Gregory J. Thorpe, Ph.D.; Division of Environmental Management; P.O. Box 27687; Raleigh, North Carolina 27611; (919) 733-5083.

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

#### SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

##### .0201 ANTIDegradation POLICY

(d) The Commission shall consider the present and anticipated usage of High Quality Waters (HQW), including any uses not specified by the assigned classification (such as outstanding national resource waters or waters of exceptional water quality) and will not allow degradation of the quality of High Quality Waters below the water quality necessary to maintain existing and anticipated uses of those waters. High Quality Waters are a subset of waters with quality higher than the standards and are as described by 15A NCAC 2B .0101(e)(5). The following procedures will be implemented in order to meet the requirements of this part:

- (2) Development activities which require a Sedimentation Erosion Control Plan in accordance with rules (15A NCAC, Chapter 4) established by the NC

Sedimentation Control Commission, and which drain to and are within one mile of High Quality Waters (HQW) will be required to control runoff from the one inch design storm as follows:

- (A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2H .1002(13), and have built-upon areas at least 30 feet from surface waters will be deemed to comply with this requirement. Activities conforming to the requirements described in 15A NCAC 2H .1003(a) except for Subparagraph (2), and (3) will also be deemed to comply with this requirement. More stringent requirements may be required on a case-by-case basis in very sensitive areas.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

#### .0211 FRESH SURFACE WATER CLASSIFICATIONS AND STANDARDS

- (b) All fresh surface waters (Class C).
- (3) Quality standards applicable to all fresh surface waters:
  - (L) Toxic substances: numerical water quality standards (maximum permissible levels) to protect aquatic life applicable to all fresh surface waters:
  - (v) Chromium, total recoverable: 50 ug/l;
  - (viii) Lead, total recoverable: 25 ug/l; collection of data on sources, transport and fate of lead will be required as part of the toxicity reduction evaluation for dischargers that are out of compliance with whole effluent toxicity testing requirements and the concentration of lead in the effluent is concomitantly determined to exceed an instream level of 3.1 ug/l from the discharge;
- (4) Action Levels for Toxic Substances: if the Action Levels for any of the substances listed in this Subparagraph (which are generally not bioaccumulative and have variable toxicity to aquatic life because of chemical form, solubility, stream characteristics and/or associated waste characteristics) are determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified low flow criterion for toxic substances (Rule .0206 in this Section), the discharger



will be required to monitor the chemical and/or biological effects of the discharge; efforts shall be made by all dischargers to reduce or eliminate these substances from their effluents. Those substances for which Action Levels are listed in this Subparagraph ~~may~~ will be limited as appropriate in the NPDES permit based on the Action Levels listed in this Subparagraph if sufficient information (to be determined for metals by measurements of that portion of the dissolved instream concentration of the Action Level parameter attributable to a specific NPDES permitted discharge) exists to indicate that any of those substances may be a significant causative factor resulting in toxicity of the effluent;

- (A) Copper: 7 ug/l;
- (B) Iron: 1.0 mg/l;
- (C) Silver: 0.06 ug/l;
- (D) Zinc: 50 ug/l;
- (E) Chloride: 230 mg/l;
- (F) Chlorine, total residual: 17 ug/l in all waters except trout waters (Tr); [a standard of 17 ug/l exists for waters classified as trout waters and is applicable as such to all dischargers to trout waters; see Paragraph (b)(3)(L)(iv) of this Section]; For purposes other than consideration of NPDES permitting of point source discharges as described in this Subparagraph, the Action Levels in this Rule, as measured by an appropriate analytical technique, will be considered as numerical ambient water quality standards.

Statutory Authority G.S. 143-214.1; 143-215.3(a)(1).

**.0212 TIDAL SALT WATER CLASSIFICATIONS AND STANDARDS**

- (b) All tidal salt waters (Class SC).
- (3) Quality standards applicable to all tidal salt waters:
  - (M) Toxic substances: numerical water quality standards (maximum permissible levels) to protect aquatic life applicable to all tidal saltwaters:
    - (i) Arsenic, total recoverable: 50 ug/l;
    - (vi) Lead, total recoverable: 25 ug/l; collection of data on sources, transport and fate of lead will be required as part of the toxicity reduction evaluation for dischargers that are out of compliance with whole effluent toxicity testing requirements and the concentration of lead in the effluent is concomitantly

determined to exceed an instream level of 3.1 ug/l from the discharge;

Statutory Authority G.S. 143-214.1; 143-215.3(a)(1).

**.0216 OUTSTANDING RESOURCE WATERS**

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site specific basis during the proceedings to classify waters as ORW. At a minimum, no new discharges or expansions of existing discharges will be permitted, and stormwater controls for all new development activities requiring a Sediment/Erosion Control Plan will be required as follows:

- (A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2H .1002(13), and have built-upon areas at least 30 feet from surface water areas will be deemed to comply with this requirement. Activities conforming to the requirements described in 15A NCAC 2H .1003(a) except for 15A NCAC 2H .1003(a)(2), (3) will also be deemed to comply with this requirement.
- (B) High Density Development: Higher density developments will be allowed if stormwater control systems utilizing wet detention ponds as described in 15A NCAC 2H .1003(i), (k) and (l) are installed, operated and maintained which control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system.

More stringent requirements may be required by the Environmental Management Commission on a site specific basis.

- (2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal



rules [15A NCAC 2H .1003 (a)(2)] within 575 feet of the mean high water line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant shellfish or submerged aquatic vegetation bed resources occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 2B .0302 through .0317) as specified for the appropriate river basin and will also be described on maps maintained by the Division of Environmental Management.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (5) In the Following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas, except those with less than 30 slips, having no boats over 21 feet in length and no boats with heads. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (6) In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed, except those with less than 30 slips, having no boats over 21 feet in length and no boats with heads.

Statutory Authority G.S. 143-214.1.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to repeal rules cited as 15A NCAC 2D .0505; amend rules cited as 15A NCAC 2D .0524 - .0525, .0535, .0901, .0903, .0912, .0917 - .0924, .0934, .1102, .1105; 2H .0603, .0610; and adopt rules cited as 15A NCAC 2D .1201 - .1209.*

*The proposed effective date of this action is May 1, 1991.*

*The public hearing will be conducted at 7:15 p.m. on November 20, 1990 at the Commission Meeting Room, Old Courthouse, 301 East Market Street, Greensboro, North Carolina.*

*Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Any person desiring to comment for more than three minutes is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The hearing officer may limit oral presentation lengths if many people want to speak to five minutes. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements. To be included, the statement must be received by the Department within 30 days after the hearing date.*

*Additional information concerning the hearing or the proposals may be obtained by contacting:*

*Mr. Thomas C. Allen  
Division of Environmental Management  
P.O. Box 27687  
Raleigh, North Carolina 27611-7687  
(919) 733-3340.*

#### SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

#### SECTION .0500 - EMISSION CONTROL STANDARDS

#### .0505 CONTROL OF PARTICULATES FROM INCINERATORS (REPEALED)

*Statutory Authority G.S. 143-215.3(a)(1);  
143-215.107(a)(5).*

#### .0524 NEW SOURCE PERFORMANCE STANDARDS

(a) Sources of the following types when subject to new source performance standards promulgated in 40 CFR Part 60 shall comply with the emission standards, monitoring and re-

porting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedure provisions, and any other provisions, as required therein, rather than with any otherwise-applicable regulation in this Section or Section .0900 of this Subchapter which would be in conflict therewith:

- (61) volatile organic compound emissions from petroleum refinery wastewater systems (40 CFR 60.1 to 60.39 and 40 CFR 60.690 to 60.699, Subpart QQQ);
- (62) volatile organic compound emissions from the synthetic organic chemical manufacturing industry air oxidation unit processes (40 CFR 60.1 to 60.39 and 40 CFR 60.610 to 60.619, Subpart III);
- (63) volatile organic compound emissions from synthetic organic chemical manufacturing industry distillation operations (40 CFR 60.1 to 60.39 and 40 CFR 60.660 to 60.669, Subpart NNN).

(b) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Regulation shall be submitted to the Environmental Management Commission Director of the Division of Environmental Management rather than to the Environmental Protection Agency.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

#### **.0525 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

(a) Sources emitting pollutants of the following types when subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedure provisions, and any other provisions, as required therein, rather than with any otherwise-applicable regulation in this Section or Section .0900 of this Subchapter which would be in conflict therewith:

- (10) inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities (40 CFR 61.01 to 61.19 and 61.180 to 61.189, Subpart P);
- (11) benzene emissions from benzene transfer operations (40 CFR 61.01 to 61.19 and 61.300 to 61.309, Subpart BB);
- (12) benzene waste operations (40 CFR 61.01 to 61.19 and 61.340 to 61.359, Subpart FF).

(b) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Regulation shall be submitted to the Environmental Management Commission Director of the Division of Environmental Management rather than to the Environmental Protection Agency.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

#### **.0535 EXCESS EMISSIONS REPORTING AND MALFUNCTIONS**

(a) For the purpose of this Regulation the following definitions apply:

- (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any regulation in Sections .0500, ~~or~~ .0900, or .1200 of this Subchapter or by a permit condition or that exceeds an emission limit established in a permit issued under 15A NCAC 2H .0610.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5).*

#### **SECTION .0900 - VOLATILE ORGANIC COMPOUNDS**

##### **.0901 DEFINITIONS**

For the purpose of this Section, the following definitions apply:

- (12) "Low solvent coating" means a coating which contains a substantially lower amount of volatile organic compound than conventional organic solvent borne coatings; it usually falls into one of three major groups of high solids, solvents, waterborne, or powder coatings.

*Statutory Authority G.S. 143-215.3(a)(1).*

##### **.0903 RECORDKEEPING: REPORTING: MONITORING**

(d) The owner or operator of any volatile organic compound emission source or control equipment shall:

- (1) install, operate, and maintain process and/or control equipment monitoring instruments or procedures as necessary to comply with Paragraph (b) and (c) of this Regulation; and
- (2) maintain, in writing, data and/or reports relating to monitoring instruments or procedures which will, upon review, document the compliance status of the volatile organic compound emission source or control equipment to the satisfaction of

the Director; such data and reports shall, as a minimum, be maintained daily.

(e) Copies of all records and reports under Paragraphs (b), (c), and (d) of this Regulation shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted. However, the Director may extend the retention period in particular instances.

(f) Copies of all records and reports under this Section shall be made available within a reasonable time to the Director upon written request.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

#### .0912 GENERAL PROVISIONS ON TEST METHODS AND PROCEDURES

(a) The owner or operator of any volatile organic compound source required to comply with regulations in this Section shall, at his own expense, demonstrate compliance by the methods described in Regulations .0912 through .0916 and .0939 through .0942 of this Section or an alternative method approved by the director. ~~No owner or operator, however, shall be required to demonstrate compliance with regulations in this Section unless the director requests such demonstration.~~ The owner or operator of a volatile organic compound source shall demonstrate compliance when the Director requests such demonstration. The Director shall explain to the owner or operator the basis for requesting a demonstration of compliance and shall allow reasonable time for testing to be performed. All tests shall be made by, or under the direction of, a person qualified by training and or experience in the field of air pollution testing.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

#### .0917 AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any automotive or light-duty truck manufacturing plant coating line subject to this Regulation shall not exceed:

- (1) 1.2 pounds per gallon of coating, excluding water and exempt compounds, delivered

to the applicator from prime application, flashoff area, and oven operations;

- (2) 2.8 pounds per gallon of coating, daily weighted average, excluding water and exempt compounds, delivered to the applicator from topcoat and surface application, flashoff area, and oven operation;
- (3) 4.8 pounds per gallon of coating, excluding water and exempt compounds, delivered to the applicator from final repair application, flashoff area, and oven operation.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

#### .0918 CAN COATING

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any can coating line subject to this Regulation shall not exceed:

- (1) 2.8 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from sheet basecoat (exterior and interior) and overvarnish or two-piece can exterior (basecoat and overvarnish) operations;
- (2) 4.2 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from two and three-piece can interior body spray and two-piece can exterior end (spray or roll coat) operations;
- (3) 5.5 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a three-piece applicator from a three-piece can side-seam spray operations;
- (4) 3.7 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from end sealing compound operations.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

#### .0919 COIL COATING

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in ac-



cordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any coil coating line subject to this Regulation shall not exceed 2.6 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from prime and topcoat or single coat operations.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.0920 PAPER COATING**

(e) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (d) of this Rule. Emissions of volatile organic compounds from any paper coating line subject to this Regulation shall not exceed 2.9 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a paper coating line.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.0921 FABRIC AND VINYL COATING**

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any fabric coating line or vinyl coating line subject to this Regulation shall not exceed:

- (1) 2.9 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a fabric coating line;
- (2) 3.8 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a vinyl coating line.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.0922 METAL FURNITURE COATING**

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any metal furniture coating line subject to this Regulation shall not exceed 3.0 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from prime and topcoat or single coat operations.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.0923 SURFACE COATING OF LARGE APPLIANCES**

(e) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (d) of this Rule. Emissions of volatile organic compounds from any large appliance coating line subject to this Regulation shall not exceed 2.8 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from prime, single, or topcoat coating operations.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.0924 MAGNET WIRE COATING**

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any magnet wire coating oven subject to this Regulation shall not exceed 1.7 pounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from magnet wire coating operations.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

**.0934 COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS**

(e) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (d) of this Rule. Emissions of volatile organic compounds from any coating line subject to this Regulation shall not exceed:

- (1) 4.3 pounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies clear coatings;
- (2) 3.5 pounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator in a coating application system that utilized air or forced air driers;
- (3) 3.5 pounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies extreme performance coatings;
- (4) 3.0 pounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies coatings of frequent color changes or of a large number of colors or applies the coating that is the first coat on untreated ferrous substrate; or
- (5) where there are no or infrequent color changes or a small number of colors is applied:
  - (A) 0.4 pounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies powder coatings; or
  - (B) 3.0 pounds per gallon, excluding water and exempt solvents, delivered to a coating applicator for any other type of coating.

Whenever more than one of the aforementioned emission limitations may apply to a process, then the least stringent emission limitation shall apply to the process.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

**SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS**

**.1102 APPLICABILITY**

(b) When a rule in Section .0500, ~~or~~ .0900, or .1200 of this Subchapter and this Section regulates the same pollutant, the more restrictive rule shall apply.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5); 143B-282.

**.1105 FACILITY REPORTING: RECORDKEEPING**

(b) The owner or operator of a facility emitting a toxic air pollutant shall maintain:

- (2) records of all testing conducted under Rules in this Section and Sections .0500, ~~and~~ .0900, or .1200 of this Subchapter,

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5); 143B-282.

**SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS**

**.1201 PURPOSE AND SCOPE**

(a) This Section sets forth rules for the control of the emissions of air pollutants from incinerators.

(b) The rules in this Section apply to all types of incinerators as defined by 15A NCAC 2D .0101(19), including incinerators with heat recovery and industrial incinerators. The rules in this Section do not apply to afterburners, flares, fume incinerators, and other similar devices used to reduce the emissions of air pollutants from processes, whose emissions shall be regulated as process emissions.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5).

**.1202 DEFINITIONS**

For the purposes of this Section, the following definitions apply:

- (1) "Hazardous waste incinerator" means an incinerator regulated under 15A NCAC 13A .0001 through .0014, 40 CFR 264.340 to 264.351, Subpart O, or 265.340 to 265.352, Subpart O.
- (2) "Medical waste incinerator" means any incinerator regulated under Section 15A NCAC 13B .1207(3).
- (3) "Municipal solid waste incinerator" means any device that combusts municipal-type solid waste.
- (4) "Municipal-type solid waste" means refuse, more than 50 percent of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, or other combustible material including

refuse-derived fuel but excluding construction and demolition waste.

- (5) "Sludge incinerator" means any incinerator regulated under Paragraph (a)(4) of Rule .0525 of this Subchapter.

*Statutory Authority G.S. 143-213; 143-215.3(a)(1).*

#### **.1203 TEST METHODS AND PROCEDURES**

(a) The test methods and procedures described in Rule .0501 of this Subchapter and in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates.

(b) The Director may require the owner or operator to test his incinerator to demonstrate compliance with the emission standards in Rule .1205 of this Section.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

#### **.1204 REPORTING AND RECORDKEEPING**

(a) The reporting and recordkeeping requirements of Rule .1105 of this Subchapter shall apply to all incinerators in addition to any reporting and recordkeeping requirements that may be contained in any other rules.

(b) The owner or operator of an incinerator shall maintain and operate a continuous temperature measuring device for the primary chamber and secondary chamber. The owner or operator of an incinerator that emits more than four pounds of hydrogen chloride per hour or that has installed air pollution abatement equipment to reduce the emissions of hydrogen chloride shall install, operate, and maintain a continuous in-stack monitor for hydrogen chloride; the Director may require the owner or operator of any other incinerator to install, operate, and maintain a continuous in-stack monitor for hydrogen chloride. The Director shall require the owner or operator of an incinerator with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain monitors for oxygen or for carbon monoxide or both as he deems appropriate. The Director may require the owner or operator of an incinerator with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both as he deems appropriate.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5).*

#### **.1205 EMISSION STANDARDS**

(a) The emission standards in this Rule apply to all incinerators except where Rule .0524 or .0525 of this Subchapter applies.

(b) Particulate matter. Hazardous waste incinerators shall comply with Subparagraph (3) of this Paragraph. All other incinerators shall comply with one of the following emission standards for particulate matter:

- (1) The emission of particulate matter from any stack or chimney of an incinerator shall not exceed:

Refuse Charge In Lb/Hour	Allowable Emission Rate For Particulate Matter In Lb/Hour
0 to 100	0.2
200	0.4
500	1.0
1,000	2.0
2,000 and Above	4.0

For a refuse charge between any two consecutive rates stated in the preceding table, the allowable emissions rate for particulate matter shall be calculated by the equation  $E = 0.002P$ . E = allowable emission rate for particulate matter in lb/hour. P = refuse charge in lb/hour.

- (2) Instead of meeting the standards in Paragraph (b)(1) of this Regulation, the owner or operator of an incinerator may choose to limit particulate emissions from the incinerator to 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide. In order to choose this option, the owner or operator of the incinerator shall demonstrate that the particulate ambient air quality standards will not be violated. To correct to 12 percent carbon dioxide, the measured concentration of particulate matter is multiplied by 12 and divided by the measured percent carbon dioxide.
- (3) Hazardous waste incinerators shall meet the particulate matter requirements of 40 CFR 264.343(c).
- (c) Sulfur dioxide. Incinerators shall comply with Rule .0516 of this Subchapter.
- (d) Visible emissions. Incinerators shall comply with Rule .0521 of this Subchapter.
- (e) Odorous emissions. Incinerators shall comply with Rule .0522 of this Subchapter.
- (f) Hydrogen chloride. Except for hazardous waste incinerators, emissions of hydrogen chloride from an incinerator shall not exceed four pounds per hour unless it is reduced by at least 90 percent by weight or to no more than 50 parts



per million by volume corrected to seven percent oxygen (dry basis). Hazardous waste incinerators shall meet the hydrogen chloride emissions requirements of 40 CFR 264.343(b).

(g) Metal emissions.

- (1) Municipal solid waste incinerators. Emissions from the stack or chimney of a municipal solid waste incinerator shall not exceed:

Pollutant	Allowable Emission Rate In Lb/Hr
Arsenic and Compounds	0.0051
Beryllium and compounds	0.090
Cadmium and compounds	0.12
Chromium (VI) and compounds	0.0018
Mercury and compounds	0.29

- (2) Sludge incinerators. Emissions from the stack or chimney of a sludge incinerator shall not exceed:

Pollutant	Allowable Emission Rate in Lb/Hr
Arsenic and compounds	0.00031
Beryllium and compounds	0.0053
Cadmium and compounds	0.0071
Chromium (VI) and compounds	0.00011

Mercury emissions from sludge incinerators are regulated under 15A NCAC 2D .0525(a)(4).

- (3) Other incinerators. Emissions from the stack or chimney of a hazardous waste incinerator, medical waste incinerator, and any other type incinerator not covered under Paragraph (g)(1) or (2) of this Rule shall not exceed:

Pollutant	Allowable Emission Rate in Lb/Hr
Arsenic and compounds	0.00011
Beryllium and compounds	0.0020
Cadmium and	

compounds	0.0026
Chromium (VI) and compounds	0.000040
Mercury and compounds	0.032

- (h) The owner or operator of an incinerator shall demonstrate compliance with Section .1100 of this Subchapter in accordance with 15A NCAC 2H .0610.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

**.1206 OPERATIONAL STANDARDS**

(a) Hazardous waste incinerators. Hazardous waste incinerators shall comply with Rules 15A NCAC 13A .0001 through .0014, which are administered and enforced by the Division of Solid Waste Management.

(b) Medical waste incinerators. Medical waste incinerators shall meet the following requirements:

- (1) The primary chamber temperature shall be at least 1200°F.
- (2) The secondary chamber temperature shall be at least 1800°F.
- (3) Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second.

Medical waste incinerators shall comply with 15A NCAC 13B .1207(3) and any other pertinent parts of Section 15A NCAC 13B .1200, which are administered and enforced by the Division of Solid Waste Management.

(c) Municipal solid waste incinerators. Municipal solid wastes incinerators shall meet the following requirements:

- (1) The concentration of carbon monoxide at the combustor outlet shall not exceed 150 parts per million by volume corrected to 7 percent oxygen (dry basis) using a four-hour block average.
- (2) The temperature of the exhaust gas entering the particulate matter control device shall not exceed 450°F.
- (3) Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second.

(d) Sludge incinerators. The combustion temperature in a sludge incinerator shall not be greater than 1650°F or less than 1200°F. The maximum oxygen content of the exit gas from a sludge incinerator stack shall be:

- (1) 12 percent (dry basis) for a multiple hearth sewage sludge incinerator,

- (2) seven percent (dry basis) for a fluidized bed sewage sludge incinerator,
- (3) nine percent (dry basis) for an electric sewage sludge incinerator, and
- (4) 12 percent (dry basis) for a rotary kiln sewage sludge incinerator.

(e) Other incinerators. All incinerators not covered under Paragraphs (a) through (d) of this Rule shall meet the following requirement: Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second.

(f) Waste material shall not be loaded into any incinerators covered under Paragraphs (b), (c), or (e) when the temperature is below the minimum required temperature. Incinerators covered under Paragraphs (b), (c), and (e) shall have automatic auxiliary burners that are capable of maintaining the required minimum temperature in the secondary chamber excluding the heat content of the wastes.

*Statutory Authority G.S. 143-215.3(a); 143-215.107(a)(5).*

#### **.1207 EXCESS EMISSIONS AND START-UP AND SHUT-DOWN**

All incinerators shall comply with Rule .0535 of this Subchapter.

*Statutory Authority G.S. 143-215.3(a); 143-215.107(a)(4), (5).*

#### **.1208 OPERATOR TRAINING REQUIREMENTS**

After May 1, 1992, no incinerator shall be operated by any person who has not satisfactorily completed a training program. By May 1, 1992, all incinerator operators shall be trained by the equipment manufacturer or another qualified organization as to proper operating practices and procedures. The owner or operator of the incinerator shall maintain records on the training of persons operating the incinerator.

*Statutory Authority G.S. 143-215.3(a).*

#### **.1209 COMPLIANCE SCHEDULES**

(a) The owner or operator of an incinerator subject to Paragraphs (f), (g), or (h) of Rule .1205, except medical waste incinerators, or Paragraphs (c) through (e) of Rule .1206 that:

- (1) begins construction after April 30, 1991, shall be in compliance with Rule .1205 and Paragraphs (c) through (e) of Rule .1206 before beginning operation.
- (2) begins construction before May 1, 1991, shall adhere to the following increments of progress and schedules:

(A) Documentation that the incinerator meets the requirements of Paragraphs (f), (g), and (h) of Rule .1205 and Paragraphs (c) through (e) of Rule .1206 or an air permit application including final plans and a compliance schedule shall be submitted before:

- (i) November 1, 1991, for incinerators at plant sites with an incinerator capacity of 1000 pounds per hour or more;
- (ii) May 1, 1992, for incinerators at plant sites with an incinerator capacity of less than 1000 pounds per hour but 400 pounds per hour or more;
- (iii) November 1, 1992 for incinerators at plant sites with an incinerator capacity of less than 400 pounds per hour but 200 pounds per hour or more;
- (iv) May 1, 1993, for plant sites with an incinerator capacity of less than 200 pounds per hour.

(B) The compliance schedule shall contain the following increments of progress:

- (i) a date by which contracts for the emission control system and/or process equipment shall be awarded or orders shall be issued for purchase of component parts;
- (ii) a date by which on-site construction or installation of the emission control and/or process equipment shall begin;
- (iii) a date by which on-site construction or installation of the emission control and/or process equipment shall be completed; and
- (iv) a date by which final compliance shall be achieved.

(C) The final compliance date under Paragraph (a)(2)(B) of this Rule shall not be later than:

- (i) November 1, 1993, for incinerators at plant sites with an incinerator capacity of 1000 pounds per hour or more;
- (ii) May 1, 1994, for incinerators at plant sites with an incinerator capacity of less than 1000 pounds per hour but 400 pounds per hour or more;
- (iii) November 1, 1994, for incinerators at plant sites with an incinerator capacity of less than 400 pounds per hour but 200 pounds per hour or more;
- (iv) May 1, 1995, for incinerators at plant sites with an incinerator capacity of less than 200 pounds per hour.

(b) The owner or operator of a medical waste incinerator that:

- (1) begins construction after April 30, 1991, shall be in compliance with Rule .1205

and Paragraph (b) of Rule .1206 before beginning operation;

- (2) begins construction before May 1, 1991, shall adhere to the following increments of progress and schedules:

- (A) Documentation that the incinerator meets the requirements of Paragraph (f), (g), and (h) of Rule .1205 and Paragraph (b) of Rule .1206 or an air permit application including final plans and a compliance schedule shall be submitted following the schedule set out in Paragraph (a)(2)(A) of this Rule;

- (B) The compliance schedule shall contain the same increments of progress as required by Paragraph (a)(2)(B) of this Rule;

- (C) Final compliance shall be achieved no later than January 1, 1995.

(c) The owner or operator shall certify to the Director within five days after the deadline, for each increment of progress, whether the required increment of progress has been met.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5).*

## SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

### SECTION .0600 - AIR QUALITY PERMITS

#### .0603 APPLICATIONS

(e) A public hearing shall be held before the issuance of any permit containing any one of these conditions:

- (5) an allowance of a particulate emission rate of 0.08 grains per dry standard cubic foot for incinerators constructed before July 1, 1987, in accordance with Regulation 15A NCAC 2D .0505, .1205(b)(2).

The public hearing shall be preceded by a 30-day period of public notice during which the agency's analysis and draft permit shall be available for public inspection in the appropriate regional office. If and when a permit containing these conditions is issued, it will become a part of the North Carolina State Implementation Plan for Air Quality (SIP) as an appendix available for inspection at Department of Environment, Health, and Natural Resources ~~Natural Resources and Community Development~~ regional offices. The permit will be submitted to the U.S. Environmental Protection Agency for inclusion as part of the federally approved state implementation plan.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109.*

#### .0610 PERMIT REQUIREMENTS FOR TOXIC AIR POLLUTANTS

(a) No person shall cause or allow any toxic air pollutant named in 15A NCAC 2D .1104 to be emitted into the atmosphere from any source without having received a permit from the commission in accordance with the following:

- (1) Sources and modifications of sources which require a permit or permit modification because of the applicability of Sections in Subchapter 2D of this Chapter other than Section .1100 and which begin construction after April 30, 1990, shall have received a permit or permit modification to emit toxic air pollutants before beginning construction and shall be in compliance with their permit when beginning operations.

- (2) The owner or operator of any incinerator subject to Section 15A NCAC 2D .1200 which began construction before May 1, 1990, shall apply for a permit or a permit modification to emit toxic air pollutants in accordance with the compliance schedules contained in 15A NCAC 2D .1209. All other sources at the facility with the incinerator shall be included, and the owner or operator of these sources shall apply for a permit or a permit modification to emit toxic air pollutants from these sources in accordance with Paragraph (b) or (c) of this Rule.

- (3) ~~(2)~~ Paragraph (a)(1) of this Rule does not apply to sources whose emissions result from combusting only unadulterated fossil fuels or unadulterated wood if the permit application is only for this type of combustion source and if the facility has not already been permitted or applied for a permit to emit toxic air pollutants.

- (4) ~~(3)~~ The owner or operator of any source other than sources required to have a permit under Paragraph (a)(1) of this Rule shall have 180 days to apply for a permit or permit modification for the emissions of toxic air pollutants after receiving written notification from the division.

- (5) ~~(4)~~ When the director calls for permit applications for facilities pursuant to Paragraph (a) ~~(3)~~ (4) of this Rule, he shall call for permit applications on the basis of standard industrial classifications, that is, he shall call at one time for permits for all facilities statewide that have the same four-digit standard industrial classification code, except those facilities located in certified local air pollution control agency



areas. All sources at the facility regardless of their standard industrial classification code and including sources combusting only unadulterated fossil fuels or unadulterated wood shall be included in the call for permit applications. All members of a source or facility category not having a standard industrial classification code shall similarly be called at one time.

- (6) ~~(5)~~ The owner or operator of a source required to obtain a permit or permit modification before the date on which the guidelines in 15A NCAC 2D .1104(b) become effective shall be required to obtain the permit or permit modification only for toxic air pollutants named in 15A NCAC 2D .1104(a). However, the owner or operator of the source will later be required in accordance with Paragraph (a) ~~(3)~~ (4) of this Rule to obtain permit modifications covering toxic air pollutants named in 15A NCAC 2D .1104(b).

- (7) ~~(6)~~ Permit calls made under this Regulation shall be limited to the emissions of toxic air pollutants.

(c) This Paragraph shall not apply to any incinerator covered under Section 15A NCAC 2D .1200. The owner or operator of any source constructed before May 1, 1990, who cannot supply a demonstration described in Paragraph (b) of this Rule shall:

- (1) submit a compliance schedule acceptable to the Director that will reduce the subject toxic air pollutant ambient concentration within three years after receiving written notification from the Director pursuant to Paragraph (a) ~~(3)~~ (4) of this Rule to a level that will not exceed any acceptable ambient level listed in 15A NCAC 2D .1104;
- (2) demonstrate to the satisfaction of the commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 is technically infeasible (the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 2D .1104 from being exceeded does not exist); or
- (3) demonstrate to the satisfaction of the commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 would result in serious economic hardship.
- (d) If the owner or operator makes a demonstration to the satisfaction of the commission or its delegate pursuant to Paragraph (c)(2) or (3) of this Rule, the Director shall require the owner

or operator of the source to apply maximum feasible control. Maximum feasible control shall be in place and operating within three years after receiving written notification from the Director pursuant to Paragraph (a) ~~(3)~~ (4) of this Rule.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to adopt rule(s) cited as 15A NCAC 10F .0363.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on November 14, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from October 31, 1990 to November 29, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

#### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

##### .0363 MCDOWELL COUNTY

(a) Regulated Areas. This Rule applies to the following waters located on Lake James in McDowell County:

- (1) The cove adjacent to the State Park swimming area.
- (2) The cove adjacent to the State Park picnic area and dock.
- (b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within any of the regulated areas described in Paragraph (a) of this Rule.
- (c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or waterskis shall permit the

same to enter any marked swimming area located on the regulated area.

(d) Placement and Maintenance of Markers. The Board of Commissioners of McDowell County is designated a suitable agency for placement and maintenance of the markers implementing this Rule.

Statutory Authority G.S. 75A-3; 75A-15.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10H .0703, .0705, .0707; and adopt rule(s) cited as 15A NCAC 10H .0710.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted:*

*November 14, 1990  
7:30 p.m.  
Lenoir County Courthouse  
130 South Queen Street  
Kinston, North Carolina 28501*

*November 14, 1990  
7:00 p.m.  
Buncombe County Courthouse  
189 College Street  
Asheville, North Carolina 28802*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from October 31, 1990 to November 29, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 North Salisbury Street, Raleigh, NC 27604-1188.*

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10H - REGULATED ACTIVITIES

#### SECTION .0700 - FISH PROPAGATION

##### .0703 TYPE OF FACILITY

(c) Residual Flow. Residual flow in a natural watercourse below the point of water withdrawal supplying a fish propagation facility must be of sufficient magnitude to prevent destruction or serious diminution of downstream fishery

habitat. For sites having a drainage area of 430 acres to 1,000 acres, the minimum flow requirement downstream of any diversion would be the 7Q10. For sites having a drainage area less than 430 acres or greater than 1,000 acres, a specific minimum flow requirement downstream of any diversion will be established by the appropriate agency. Under no conditions may the entire flow of a watercourse be diverted to supply a fish propagation facility.

(d) Escape Prevention Plan. Facilities licensed to propagate species of fishes or hybrids other than those designated in Rule .0710 of this Section must develop and institute a plan approved by the Wildlife Resources Commission to prevent the escape of fishes into public waters.

Statutory Authority G.S. 113-134; 113-273.

##### .0705 ACQUISITION OF FISH OR EGGS

(a) A fish propagator licensed under this Section may purchase or acquire live fish of the species designated by his license, or the fry or eggs thereof, in any quantity from any lawful source. Licensed fish propagators may possess those species not designated on their licenses only after obtaining written authorization from Executive Director. When in possession of a copy of the receipt or other written evidence of the transaction, showing the date, source, species, and quantity of the acquisition and its destination, he may transport such fish, fry, or eggs to his licensed facility without the permit required by 15A NCAC 10C .0209. Such receipts shall be retained as part of the licensee's records.

(b) Operators of fish propagation facilities must obtain written certification from the U.S. Fish and Wildlife Service or other laboratory approved by the Wildlife Resources Commission that fish or fish eggs imported into North Carolina are free of the causative agents of the following diseases:

Infectious Hematopoietic Necrosis Virus (IHNV)  
Viral Hemorrhagic Septicemia (VHS)  
Proliferative Kidney Disease (PKD)  
Bacterial Kidney Disease (Renibacterium salmoninarum)  
Ceratomyxosis (Ceratomyxa shasta)  
Whirling Disease (Myxobolus cerebralis)

Statutory Authority G.S. 113-134; 113-273.

##### .0707 SALE OF FISH OR EGGS

(a) Authorization. Except as prohibited by Rule .0706(c) or Rule .0707(d) of this Section, a licensed fish propagator may sell any fish, fry, or eggs lawfully possessed or produced under his li-

cense by any of the methods outlined by the succeeding subsections of this Rule.

(b) **Packaged Fish.** Propagated fish may be processed and packaged with a printed wrapper bearing the name, address, and license number of the producer, indicating the species and net weight of the enclosed fish, and stating that the sale thereof is authorized by the North Carolina Wildlife Resources Commission. When so packaged such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Packaged fish sold under this Subsection may be processed by the licensed producer himself or by a commercial processor as agent of the licensed producer. In the alternative, any commercial processor, distributor, or broker having a fish propagation license standing in its own name may purchase propagated fish from any other licensed producer and process, package, and distribute such fish under its own license.

(c) **Fresh Fish.** Propagated fish may be killed and sold fresh either at the licensed propagation facility or by the licensee at any other location provided a copy of his fish propagation license is in the seller's possession. Every such sale of a species designated as inland game fish by 15A NCAC 10C .0301 must be accompanied by a receipt showing the date of sale, the name, address and license number of the propagator, the number and species of the fish sold, and the name of the purchaser. Each subsequent resale of such inland game fish must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, and, if the sale is to other than the ultimate consumer, the name of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law enforcement officer. A duplicate copy of each such receipt must be retained by the seller as part of the records of each transaction.

(d) **Live Fish and Fish Eggs**

(1) A licensed fish propagator may sell live fish and fry of the species designated in his license Rule .0710 of this Section to the owners of private ponds as defined by G.S. 113-129(13) and may sell live fish, fry, and eggs of such species to any person licensed to propagate the same species of fish. The sale of live fishes, other than those designated in Rule .0710 of this Section, must be approved in advance by Wildlife Resources Commission. A licensed propagator of mountain trout may sell such trout alive to licensed operators of commercial trout fishing ponds and

commercial trout holding ponds. A licensed propagator of nongame species of fish for use as bait may sell the same at wholesale or to retailers of fish bait. All such sales shall be evidenced by a duplicate receipt or other memorandum of sale showing the date of the sale, the name, address, and license number of the seller, the name of the purchaser, the quantity and species of fish, fry, or eggs sold, and their destination. The original of the receipt shall be given to the purchaser and the copy shall be retained by the propagator as part of his records. On all such sales, the purchaser in possession of the receipt or the propagator in possession of a copy of his license or the receipt may transport the fish, fry, or eggs from the propagation facility to the stated destination without the permit required by 15A NCAC 10C .0209.

(2) A licensed fish propagator may sell live fish of the species designated in his license at retail to purchasers for their own use or consumption either at the licensed propagation facility or at any other location where a copy of his fish propagation license is prominently displayed. Every such sale of a species designated as inland game fish by 15A NCAC 10C .0301 must be accompanied by a receipt showing the date of sale, the name, address, and license number of the propagator, the number and species of fish sold, and the name of the purchaser. The resale of any such inland game fish is unlawful, and the purchaser in possession of such fish must exhibit the receipt on demand of any law enforcement officer. A duplicate copy of each such receipt must be retained as part of the records of the propagator.

(3) It shall be unlawful to release live fish that are products of a commercial aquaculture facility into the public waters of the state without first obtaining written authorization from the Wildlife Resources Commission.

*Statutory Authority G.S. 113-134; 113-273.*

#### **.0710 UNRESTRICTED SPECIES**

The following fishes are designated as unrestricted species for propagation:

- |                       |                     |
|-----------------------|---------------------|
| (1) Bluegill          | Lepomis macrochirus |
| (2) Redear Sunfish    | Lepomis microlophus |
| (3) Redbreast Sunfish | Lepomis auritus     |
| (4) Green Sunfish     | Lepomis cyanellus   |



- (5) Any hybrids using species of the genus *Lepomis* listed in this Rule
- (6) Black Crappie *Pomoxis nigromaculatus*
- (7) White Crappie *Pomoxis annularis*
- (8) Largemouth Bass *Micropterus salmoides* (northern strain)
- (9) Smallmouth Bass *Micropterus dolomieu*
- (10) White Catfish *Ictalurus catus*
- (11) Channel Catfish *Ictalurus punctatus*
- (12) Golden Shiner *Notemigonus crysoleucas*
- (13) Fathead Minnow *Pimephales promelas*
- (14) Goldfish *Carassius auratus*
- (15) Rainbow Trout *Oncorhynchis mykiss*
- (16) Brown Trout *Salmo trutta*
- (17) Brook Trout *Salvelinus fontinalis*
- (18) Common Carp *Cyprinus carpio*

Statutory Authority G.S. 113-134; 113-273.

## TITLE 18 - SECRETARY OF STATE

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Secretary of State, Securities Division intends to amend rule(s) cited as 18 NCAC 6 .1202.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on November 14, 1990 at the Securities Division, Legislative Office Building, 300 N. Salisbury St. - Suite 404, Raleigh, NC 27603.*

*Comment Procedures: Any interested person may present written comments for consideration by the Securities Division. The hearing record will remain open for receipt of comments from October 15, 1990, through November 14, 1990. Written comments should be received by the Division by midnight on November 13, 1990, to be considered as part of the hearing record. Comments should be addressed to:*

Stephen M. Wallis  
Deputy Securities Administrator  
Office of Secretary of State  
Securities Division  
300 N. Salisbury St.  
Room 404  
Raleigh, NC 27603-5909

*Any person may present oral comments at the hearings. Requests to speak should be presented*

*in writing to the Deputy Securities Administrator at the above address no later than five days before the date of the hearing. Additional comments may be allowed by the Division by sign up at the public hearing as time allows. All presentations will be limited to 30 minutes. No fiscal note has been prepared pursuant to G.S. 150B-11(3) in connection with this proposed change to the administrative rules of the Division, as the proposed change will not require the expenditure or distribution of State funds.*

*This Rule is an amendment to the current rule of the Securities Division at 18 NCAC 6 .1202. The proposed effective date is February 1, 1991.*

## CHAPTER 6 - SECURITIES DIVISION

### SECTION .1200 - EXEMPTIONS

#### .1202 RECOGNIZED SECURITIES MANUALS

(a) The publications recognized by the administrator as securities manuals for the purposes set forth in G.S. 78A-17(2)a. shall be:

- (1) Standard and Poor's Corporation Records,
- (2) Moody's Industrial Manual,
- (3) Moody's Over-the-Counter Industrial Manual, ~~and~~
- (4) Moody's International Manual, and
- (5) ~~(4)~~ Periodic supplements to each recognized securities manual.

Other publications may be recognized by the administrator, on a case by case basis, upon a showing that the information required by G.S. 78A-17 (2)a. is actually contained in the publication.

Statutory Authority G.S. 78A-17(2)a.; 78A-49(a).

## TITLE 21 - OCCUPATIONAL LICENSING BOARD

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina State Board of Cosmetic Art Examiners intends to amend rule(s) cited as 21 NCAC 14A .0101; 14G .0001, .0003, .0007 - .0011, .0013 - .0016; 14H .0001 - .0002, .0005, .0009, .0012, .0018; 14I .0101, .0103 - .0109, .0201 - .0205, .0301 - .0303; 14K .0003 - .0004; 14L .0101, .0208 - .0211, .0214; repeal rule(s) cited as 21 NCAC 14G .0004, .0006; 14L .0102, .0202, .0204, .0207; and adopt rule(s) cited as 21 NCAC 14L .0105 - .0108, .0215 - .0216.*

*The proposed effective date of this action is February 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on November 19, 1990 at the N.C. State Board of Cosmetic Art Examiners, 4101 Capital Blvd., Suite H, Raleigh, N.C. 27604.*

**Comment Procedures:** Written comments and/or requests for information or copies of the above rules may be sent to Vicky R. Goudie, Executive Secretary, N.C. State Board of Cosmetic Art Examiners, 4101 Capital Blvd., Suite H, Raleigh, N.C. 27604. Written and oral comments (for no more than ten minutes) on these Rules may be presented at the hearing. Notice should be sent to Mrs. Goudie at least three days prior to the hearing, if you desire to speak.

**Note:** 21 NCAC 14I .0105 is set for rule-making on September 17, 1990, and has been or will be considered separately from the manicurist school rules.

## CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

### SUBCHAPTER 14A - DEPARTMENTAL RULES

#### SECTION .0100 - ORGANIZATIONAL RULES

##### .0101 DEFINITIONS

The following definitions apply in this Chapter:

- (1) ~~"Beauty Establishment. A cosmetology school or a beauty salon. Establishment"~~ refers to both cosmetic art schools and cosmetic art shops.
- (2) "Board" refers to the North Carolina State Board of Cosmetic Art Examiners.
- (3) ~~Cosmetology School. A beauty college, beauty institution, cosmetic art school, or other school where cosmetology is taught.~~ "Cosmetic Art School" refers to any place where cosmetic art, as defined by G.S. 88-2, or methods of teaching cosmetic art are taught for purposes of licensing by the Board regardless of the title of the school or program.
- (4) "Cosmetic Art Shop" refers to any building, or part thereof, wherein cosmetic art, as defined by G.S. 88-2, is practiced, other than a cosmetic art school. A cosmetic art shop includes beauty parlors, hair dressing establishments and nail shops.
- (5) "Cosmetology School" is any cosmetic art school which is not a manicurist school.
- (6) "Cosmetology Student" is a student in any cosmetic art school with the exception of a manicurist student.
- (7) "Cosmetology Teacher" is any teacher who is licensed by the Board to teach the

cosmetic arts, but who is not necessarily a manicurist teacher.

- (8) "Manicuring" is that set of cosmetic arts related to the nails, hands, arms and feet. It includes traditional manicuring, pedicuring, arm and hand massages, and all types of artificial nails.
- (9) "Manicurist School" is a cosmetic art school which teaches only the cosmetic arts of manicuring.
- (10) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14K .0002.
- (11) "Manicurist Teacher" is a teacher who is licensed by the Board to teach only the manicuring curriculum.
- (12) "Nail Shop" is a cosmetic art shop which practices only the cosmetic arts of manicuring.

*Statutory Authority G.S. 88-1.*

### SUBCHAPTER 14G - REQUIREMENTS FOR THE ESTABLISHMENT OF COSMETIC ART SCHOOLS

#### .0001 REQUIREMENTS FOR OPERATING COSMETIC ART SCHOOLS

Persons desiring to operate a ~~cosmetology cosmetic art~~ school in the state of North Carolina must make application to the Board on an application blank to be furnished by the Board, and must furnish proof of reliability, financial and otherwise.

*Statutory Authority G.S. 88-23; 88-30.*

#### .0003 SPACE REQUIREMENTS

(a) The ~~cosmetology~~ Cosmetic Art Board will issue letters of approval only to cosmetology schools that have at least 3,000 square feet of inside floor space located within the same building and have 30 stations, arranged to accommodate not less than 30 students and arranged so that the course of study and training in cosmetology, as prescribed by the Board, may be given. All stations must be numbered numerically.

(b) The beginner department must have sufficient space comfortably to accommodate at least ten students and must have at least 40 inches between mannequins. Cosmetology schools approved with 3,000 square feet of inside floor space may enroll no more than 60 students at one time, and for each student enrolled in addition to 60 students, 50 square feet of inside floor space must be provided.

(c) In addition each cosmetology school must have 30 hairdressing stations, arranged to ac-

commodate not less than 30 students and arranged so that the course of study and training in cosmetology, as prescribed by the Board, may be given. All stations must be numbered numerically.

(d) Cosmetology schools must also have a beginner department containing sufficient space to comfortably accommodate at least ten students and having at least 40 inches between mannequins.

(e) The Board will issue letter of approval only to manicurist schools that have at least 1,000 square feet.

(f) Manicurist schools with 1,000 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided.

(g) In addition, manicurist schools must have ten manicurist tables and chairs a minimum of two feet apart, side to side, arranged to comfortably accommodate ten students.

Statutory Authority G.S. 88-23; 88-30.

#### .0004 NUMBER OF STUDENTS (REPEALED)

Statutory Authority G.S. 88-23.

#### .0006 LIGHTING AND VENTILATION (REPEALED)

Statutory Authority G.S. 88-23.

#### .0007 EQUIPMENT AND TEACHERS

(a) A ~~cosmetology~~ cosmetic art school must have the necessary classrooms and equipment for teaching as required by Subchapters 14I and 14J, and must provide a staff of cosmetic art teachers licensed by the Board.

(b) The Board ~~must~~ will not accept an application for a letter of approval until all furniture, supplies and equipment as prescribed by the Board has been installed and the entire school is complete.

(c) A cosmetologist who is not licensed to teach cosmetology may substitute for a cosmetology teacher in case of emergency. Otherwise, all courses in a cosmetology school must be taught by a cosmetology teacher. All courses other than manicuring courses in a cosmetic art school must be taught by a licensed cosmetology teacher and all manicurist courses must be taught by either a licensed manicurist teacher or a licensed cosmetology teacher.

(d) Notwithstanding Paragraph (c) of this Rule, a registered cosmetologist not licensed to teach cosmetic art may substitute for a cosmetology or

manicurist teacher and a registered manicurist not licensed by this Board as a manicurist teacher may substitute for a manicurist teacher. In no event may such a substitution last for more than ten working days.

Statutory Authority G.S. 88-23; 88-30.

#### .0008 VISITATION

The Board shall visit every ~~cosmetology~~ cosmetic art school that applies for a letter of approval.

Statutory Authority G.S. 88-23; 88-30.

#### .0009 STUDENT CREDIT

No student shall be given credit for any hours earned in a ~~cosmetology~~ cosmetic art school before the date the school is granted a letter of approval.

Statutory Authority G.S. 88-23; 88-30.

#### .0010 TRANSFERABILITY OF LETTER OF APPROVAL

Letters of approval issued to ~~cosmetology~~ cosmetic art schools are not transferrable, and are valid only for the location for which issued, and to the person to whom issued.

Statutory Authority G.S. 88-23; 88-30.

#### .0011 CHANGE OF LOCATION: OWNERSHIP OR MANAGEMENT

If the location of a ~~cosmetology~~ cosmetic art school changes, ~~or~~ if there is a transfer of ownership of a ~~cosmetology~~ cosmetic art school, whether by sale, lease or otherwise, a new approval application is required.

Statutory Authority G.S. 88-23; 88-30.

#### .0013 TEACHER/STUDENT RATIO

(a) All cosmetic art schools must provide one ~~cosmetology~~ teacher must be provided for every 20 students, or a fraction thereof, present.

(b) This ratio must be adhered to at all times the school is schools are in operation. Refer to 21 NCAC 14G .0015.

Statutory Authority G.S. 88-23; 88-30.

#### .0014 SCHOOL AFFILIATION WITH COSMETIC ART SHOPS AND OTHER BUSINESSES

(a) No cosmetic art shop ~~Beauty shops~~ or any other business shall ~~not~~ be operated as ~~cosmetology~~ schools. a cosmetic art school.



(b) Cosmetic art ~~Beauty~~ shops or other businesses operating adjacent to a ~~cosmetology~~ cosmetic art school shall be separated by a solid wall, floor to ceiling, with a separate entrance.

*Statutory Authority G.S. 88-23; 88-30.*

**.0015 FAILURE TO COMPLY WITH RULES**

Failure of a ~~cosmetology~~ cosmetic art school to comply with the rules adopted by the Board is cause to revoke or suspend the school's letter of approval.

*Statutory Authority G.S. 88-23; 88-30.*

**.0016 RE-EVALUATION OF SCHOOLS**

The Board reserves the authority to re-evaluate any ~~cosmetology~~ cosmetic art school at any time.

*Statutory Authority G.S. 88-23; 88-30.*

**SUBCHAPTER 14II - SANITATION**

**.0001 COPY OF RULES TO COSMETOLOGY STUDENTS**

Cosmetic art ~~Cosmetology~~ schools must give a copy of the sanitation rules governing the practice of ~~cosmetology~~ the cosmetic arts to each student for study. ~~The Board must give cosmetology schools sufficient copies of these rules for distribution to these students.~~

*Statutory Authority G.S. 88-23; 88-30.*

**.0002 COPY OF RULES TO BEAUTY ESTABLISHMENTS**

The Board must give copies of the rules of sanitation governing the practice of ~~cosmetology~~ cosmetic art to all beauty establishments.

*Statutory Authority G.S. 88-23; 88-30.*

**.0005 SANITARY RATINGS AND POSTING OF RATINGS**

(a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter. Based on the grading, all establishments will be rated in the following manner:

- (1) all establishments receiving a rating of at least 90 percent or more, shall be awarded a grade A;
- (2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded grade B; and
- (3) all establishments receiving a rating of at least 70 percent, and less than 80 percent, shall be awarded grade C.

(b) Every beauty establishment shall be given a sanitary rating. A ~~cosmetology~~ cosmetic art school is normally graded four times a year, and a ~~beauty cosmetic art~~ salon is normally graded ~~two times~~ twice a year.

(c) The sanitary rating given to a beauty establishment shall be posted in a conspicuous place at all times.

(d) No beauty establishment shall be permitted to operate without first having obtained a sanitary rating card with a grade of not less than 70 percent.

(e) ~~Cosmetology~~ Cosmetic art inspectors shall give each beauty establishment a new sanitary rating card each year.

(f) Violation of any sanitary rules, or the operation of a beauty establishment which fails to receive a sanitary rating of at least 70 percent (grade C) shall be sufficient cause for revoking or suspending the letter of approval or permit.

(g) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30 days of the last inspection, if the rating at the last inspection was less than 70 percent.

*Statutory Authority G.S. 88-23; 88-30.*

**.0009 VENTILATION AND LIGHT**

(a) All doors and windows shall be kept clean and, if open for ventilation, effectively screened.

(b) ~~Necessary~~ Fresh continuous ventilation shall be provided at all times.

(c) Adequate light shall be provided for each operator.

*Statutory Authority G.S. 88-23.*

**.0012 CLEANLINESS OF CLINIC AREA: SUPPLIES: COMBS AND BRUSHES**

(a) The clinic area shall be kept clean.

(b) Waste material shall be kept in suitable covered receptacles. The area surrounding the waste receptacles shall be maintained in a neat and sanitary manner.

(c) Sanitation rules which apply to towels and cloths are as ~~follow:~~ follows:

- (1) Separate and clean towels shall be used for each patron.
- (2) After a towel has been used once, it shall be discarded and placed in a clean, closed container until properly laundered.
- (3) Clean towels shall be kept in a clean, closed cabinet until they are needed.
- (4) Chair cloths and shampoo aprons shall be kept clean and shall not be allowed to come in direct contact with the patron's neck.

(d) The head rest of an operating chair shall be covered with a clean towel or other sanitary covering before being used.

(e) At least six combs and brushes shall be provided for each cosmetology operator and cosmetology student.

(f) All combs, ~~and~~ brushes and manicurist instruments shall be cleaned and disinfected after each use in the following manner:

- (1) They shall be soaked in a cleaning solution that will not leave a residue and, if necessary, scrubbed.
- (2) They shall be disinfected by immersion for a least ten minutes in 70 percent by volume isopropyl alcohol, or they shall be disinfected, in accordance with the manufacturer's instructions, with a disinfectant approved by the Federal Environmental Protection Agency. When selecting a disinfectant, care should be taken to choose one that will not shorten the service life of ~~combs or brushes~~ the comb, brush or manicuring instrument. In using a disinfectant, care should be taken to wear any personal protective equipment, such as gloves, recommended in the Material Safety Data Sheet prepared on the disinfectant by the manufacturer.
- (3) They shall be rinsed with hot tap water and dried thoroughly with a clean towel before their next use. If they are not used immediately, they shall be stored in a clean, closed cabinet until they are needed.

Statutory Authority G.S. 88-23; 88-30.

#### .0018 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS

(a) The system of grading the sanitary rating of manicurist schools and nail shops, based on the rules set out in 21 NCAC 1411 .0006 to .0017 shall be as follows, setting out areas to be inspected and considered, and the points given for compliance:

- (1) clean and well-repaired entrance and reception room -- 2;
- (2) general condition of the entire establishment -- 8;
- (3) water system; hot and cold running water -- 2;
- (4) walls, ceiling and floors:
  - (A) construction and coverings -- 4;
  - (B) clean -- 4;
  - (C) good repair -- 3;
- (5) lighting and fresh continuous ventilation (windows included); their adequacy and cleanliness -- 7;
- (6) public toilet:

(A) clean and well ventilated -- 5;

(B) soap and individual towels furnished -- 5;

(C) hot and cold running water -- 2;

(7) appearance of operators and students -- 4;

(8) linens:

(A) clean towels properly stored and in adequate supply -- 2;

(B) soiled towels properly stored in closed containers -- 2;

(9) waste in closed containers and clean area -- 4;

(10) equipment cleanliness:

(A) disinfectants selected from those approved by the Federal Environmental Protection Agency -- 6;

(B) disinfectants used properly -- 5;

(C) all implements cleaned, disinfected, and properly stored -- 12;

(D) booths clean -- 8;

(11) working area:

(A) lavatories clean -- 4;

(B) jars and containers closed, clean and disinfected -- 2;

(C) no unnecessary articles in work area -- 2;

(12) antiseptics and first aid supplies on hand -- 1;

(13) cosmetics:

(A) clean and sanitary conditions -- 2;

(B) storage area for supplies clean and in order -- 3;

(14) no animals or birds kept in establishment -- 1.

(b) The system of grading the sanitary rating of ~~a~~ all other beauty establishments, based on the rules set out in 21 NCAC 1411 .0006 to .0017 shall be as follows, setting out areas to be inspected and considered, and the points given for compliance:

- (1) clean and well-repaired entrance and reception room -- 2;
- (2) general condition of the entire establishment -- 8;
- (3) water system; hot and cold running water -- 2;
- (4) walls, ceiling and floors:
  - (A) ~~(a)~~ construction and covering -- 4;
  - (B) ~~(b)~~ clean -- 4;
  - (C) ~~(c)~~ good repair -- 3;
- (5) lighting and ventilation (windows included); their adequacy and cleanliness -- 3;
- (6) public toilet:
  - (A) ~~(a)~~ clean and well ventilated -- 5,
  - (B) ~~(b)~~ soap and individual towels furnished -- 5,

- (C) ~~(e)~~ hot and cold running water -- 2;
- (7) appearance of operators or students -- 4;
- (8) linens:
  - (A) ~~(a)~~ clean towels properly stored and in adequate supply -- 2,
  - (B) ~~(b)~~ soiled towels properly stored in closed containers -- 2,
  - (C) ~~(c)~~ hair cloths clean -- 1;
- (9) waste in closed containers and clean area -- 4;
- (10) equipment cleanliness:
  - (A) ~~(a)~~ disinfectants selected from those approved by the Federal Environmental Protection Agency,
  - (B) ~~(b)~~ disinfectants used properly -- 5,
  - (C) ~~(c)~~ all implements cleaned, disinfected, and properly stored -- 12;
- (11) working area:
  - (A) ~~(a)~~ booths clean -- 4,
  - (B) ~~(b)~~ lavatories clean -- 4,
  - (C) ~~(c)~~ jars and containers clean and disinfected -- 2,
  - (D) ~~(d)~~ no unnecessary articles in work area -- 2;
- (12) dryers clean and in repair -- 3;
- (13) styling and shampooing chairs clean and sanitary -- 4;
- (14) antiseptics and first aid supplies on hand -- 1;
- (15) cosmetics:
  - (A) ~~(a)~~ clean and sanitary condition -- 2,
  - (B) ~~(b)~~ storage area for supplies clean and in order -- 3;
- (16) no domestic animals or birds kept in establishment -- 1.

Statutory Authority G.S. 88-23; 88-30.

#### SUBCHAPTER 14I - OPERATIONS OF SCHOOLS OF COSMETIC ART

##### SECTION .0100 - RECORD KEEPING

###### .0101 PERMANENT FILES

- (a) A section of a ~~cosmetology~~ cosmetic art school shall contain at least a suitable desk, chair and a permanent file suitable for permanent records of matriculations of all students enrolled.
- (b) Permanent files shall be kept under lock and key, in the beauty establishment, subject to inspection by the Board or its authorized agents.
- (c) Included in this file shall be permanent records of the matriculations of all students enrolled including the following:
  - (1) names and addresses of students,
  - (2) places and dates of birth,
  - (3) Social Security number,
  - (4) date students entered school,
  - (5) number of hours earned,

- (6) complete breakdown of practical work performed by the student,
- (7) grades on all examinations taken by the student, and
- (8) date of graduation.
- (d) The original copy of all enrollment forms is to be filed with the Board, and the duplicate is to be held by the school.

Statutory Authority G.S. 88-23; 88-30.

###### .0103 INSPECTION AND REPORTS OF STUDENT HOURS

- (a) In addition to such other reports as may be required by the Board, ~~cosmetology~~ cosmetic art schools must report to the Board or its authorized agent, upon inspection of the ~~cosmetology~~ cosmetic art school and at other times upon specific request, the names of all students currently enrolled and the hours completed by each.
- (b) The owner or manager of the ~~cosmetology~~ cosmetic art school must read each inspection report made of the ~~cosmetology~~ cosmetic art school by an authorized agent of the Board to determine that the information on the inspection report is correct and must sign the report. If any part of the information on the report is incorrect, it must be corrected before signing.
- (c) A report of all hours earned by each student during the preceding month to the Board by the 15th of each month covering the hours earned.
- (d) Reports must be mailed in on forms approved by the Board.
- (e) The Board must be notified by letter prior to demonstrators, lecturers or observers being in the school.

Statutory Authority G.S. 88-23; 88-30.

###### .0104 WITHDRAWALS

- (a) When a student who is enrolled in a ~~cosmetology~~ cosmetic art school withdraws from such school, whether by reason of transfer to another school, dismissal, suspension, voluntary disenrollment, or for any reason other than graduation, a report thereof shall be forwarded to the Board within 20 days of withdrawal.
- (b) Such report shall contain the following:
  - (1) name of the student,
  - (2) Social Security number,
  - (3) the last date of attendance,
  - (4) the reason for withdrawal (if known), and
  - (5) the hours completed at the time of withdrawal.

Statutory Authority G.S. 88-23; 88-30.



**.0105 TRANSFER OF CREDIT**

(a) In order that hours may be transferred from one ~~cosmetology~~ cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring, ~~to~~ covering the portion of work completed in the previous school or schools attended.

(b) A cosmetology student must complete at least 250 hours in the ~~cosmetology~~ cosmetic art school certifying his or her application for the state board examination.

(c) Upon written petition by the student, the Board, in its discretion, may waive the requirements set forth in Paragraph (b) of this Rule if the student shows that unusual circumstances beyond the student's control prohibited him or her from completing 250 hours at the school which certifies his or her application.

*Statutory Authority G.S. 88-23; 88-30.*

**.0106 STUDENT DAILY RECORDS**

All daily records kept by a ~~cosmetology~~ cosmetic art school on a student must be kept in the school's permanent files for future reference until the date the student is accepted for the state board examination or ten years after the date the student first enrolled in the school, whichever occurs earlier.

*Statutory Authority G.S. 88-23; 88-30.*

**.0107 REPORT OF ENROLLMENT**

(a) A ~~cosmetology~~ cosmetic art school must report enrollments to the Board not later than 30 days after a student enrolls in school. If a student's enrollment is not reported within 30 days, the ~~cosmetology~~ cosmetic art school must file a copy of the student's daily time records when it reports the student's enrollment.

(b) A student whose enrollment has not been properly reported to the Board will not be accepted for either the cosmetology examination or the manicurist examination, and no hours will be credited.

(c) The North Carolina State Board of Cosmetic Art Examiners' Statement of Purpose for ~~Cosmetology~~ Cosmetic Art Education must be given to each student at the time of enrollment. An acknowledgement of receipt of this must be signed by the student and kept by the cosmetology school with the permanent records of the student.

*Statutory Authority G.S. 88-23; 88-30.*

**.0108 SEAL**

Each ~~cosmetology~~ cosmetic art school must have an identifying seal, to be used on all applications, reports, drop-out notices, and other official ~~paper.~~ papers.

*Statutory Authority G.S. 88-23; 88-30.*

**.0109 SUMMARY OF COSMETIC ART EDUCATION**

(a) The manager of each ~~cosmetology~~ cosmetic art school must compile, from the school's records, a summary of each student's grades, hours, live model performance completions, date of enrollment, and last date of attendance. The summary must be presented to the student upon graduation or within 30 days after the student's last day of attendance.

(b) This summary must be signed by the manager, a teacher, and the student and must have the seal of the school affixed.

(c) The summary must be prepared on a form furnished by the Board and, if presented upon graduation, a copy of the summary must be mailed to the Board at the Board's address.

*Statutory Authority G.S. 88-23; 88-30.*

**SECTION .0200 - RECEPTION AREA**

**.0201 RECEPTION AREA**

Each ~~cosmetology~~ cosmetic art school must provide a reception area for its patrons.

*Statutory Authority G.S. 88-23; 88-30.*

**.0202 RECEPTION AREA SIGN**

Each ~~cosmetology~~ cosmetic art school must display a sign in a conspicuous place in the reception area. The sign cannot be smaller than 12 inches by 18 inches, and must read as follows and in no other way: "School of Beauty Culture Cosmetic Art School --Work Done Exclusively by Students."

*Statutory Authority G.S. 88-23; 88-30.*

**.0203 BULLETIN BOARD**

Each ~~cosmetology~~ cosmetic art school must have a bulletin board in a conspicuous place in the reception area on which must be displayed at all times the letter of approval and annual school certificate issued by the Board, and any letter, bulletin, or memorandum issued by the Board which states that it is to be posted.

*Statutory Authority G.S. 88-23; 88-30.*

**.0204 SANITATION RULES**

A copy of the sanitation rules governing the practice of ~~cosmetology~~ cosmetic arts must be posted in a conspicuous place in the reception area of a ~~cosmetology~~ cosmetic art school so all persons can read the rules.

*Statutory Authority G.S. 88-23; 88-30.*

**.0205 DRESSING ROOM**

(a) Each ~~cosmetology~~ cosmetic art school must provide a dressing room for its students.

(b) The dressing room must have lockers or suitable space for storing wearing apparel of each student.

*Statutory Authority G.S. 88-23; 88-30.*

**SECTION .0300 - CLASSROOMS**

**.0301 RECITATION ROOM**

(a) Each ~~cosmetology~~ cosmetic art school must have a recitation room, large enough to accommodate all 20 students, enrolled, which shall be equipped with desks or chairs suitable for classroom work, ~~a chair~~ chair(s) suitable for demonstrating cosmetology practices, a blackboard, and charts, except that the demonstration chair(s) in a manicurist school need be suitable only for demonstrating manicuring and pedicuring practices.

(b) Charts in the recitation room must include those with illustrations of the skin, bones, muscles, and nerves of the head, neck, feet, and hands, except that the set of charts in a manicurist school need not include those illustrating the head and neck.

*Statutory Authority G.S. 88-23; 88-30.*

**.0302 LIBRARY**

(a) A ~~cosmetology~~ cosmetic art school must have a small library of reference books available for the students' use, covering major ethnic cultures in the State of North Carolina.

(b) In addition to The library of all cosmetic art schools shall include the textbooks used in the school, the library shall contain a standard dictionary, a medical dictionary, and any other books relative to all fields of cosmetology. the cosmetic arts. The library in a cosmetology school shall also include reference books covering major ethnic cultures in the State of North Carolina. Students should be able to research in the school's library the field of cosmetic art which they are studying.

*Statutory Authority G.S. 88-23; 88-30.*

**.0303 CLASSROOM BULLETIN BOARD**

(a) Each classroom must have a bulletin board on the wall.

(b) Any memorandum, letter, or bulletin issued by the Board, which states that it is to be posted in ~~the cosmetology~~ a cosmetic art school for the information of the students, must be posted on this bulletin board.

(c) A copy of the sanitary rules must be posted on this bulletin board, also.

*Statutory Authority G.S. 88-23; 88-30.*

**SUBCHAPTER 14K - MANICURIST TRAINING CURRICULUM**

**.0003 EQUIPMENT AND INSTRUMENTS**

Sufficient equipment for performing manicures shall be provided for each student enrolled for a course in manicuring.

(a) A manicurist school shall be equipped with the following minimum equipment:

- (1) two handwashing sinks, separate from restrooms, located in or adjacent to the clinic area,
- (2) adequate chairs for patrons in the clinic area,
- (3) ten work tables with adequate light in the clinic area for every 20 students,
- (4) pedicure chair and basin,
- (5) one wet and one dry sterilizer for each work table,
- (6) a covered waste container for each work table, and
- (7) a covered container for soiled or disposable towels for each work table;

(b) Each student shall be supplied with:

- (1) a manicurist bowl,
- (2) nail brushes,
- (3) a tray for manicuring supplies,
- (4) one set of mannequin hands,
- (5) a manicuring kit containing proper implements for manicuring and pedicuring, and
- (6) implements for artificial nails, nail wraps and tipping.

*Statutory Authority G.S. 88-23; 88-30.*

**.0004 SERVICES PERFORMED**

No student enrolled in a course for manicuring only, shall perform any services in the ~~cosmetology~~ cosmetic art school except those directly related to the prescribed course in manicuring. Students with less than 16 hours credit are not allowed to work on the public.

*Statutory Authority G.S. 88-23; 88-30.*

**SUBCHAPTER 14L - COSMETIC ART TEACHERS**

**SECTION .0100 - TEACHER QUALIFICATIONS AND EXAMINATIONS**

**.0101 QUALIFICATIONS - COSMETOLOGIST TEACHERS**

(a) To be a cosmetology teacher, an applicant must:

- (1) have a high school diploma or a high school graduation equivalency certificate;
- (2) have either:
  - (A) practiced cosmetology in a ~~beauty salon~~ cosmetic art shop for a period equivalent to five years of full-time work; or
  - (B) completed an 800-hour teacher training course in ~~a cosmetology set forth in Rule 14L .0202(a) in an approved cosmetic art school and practiced cosmetology in a beauty salon~~ cosmetic art shop for a period equivalent to six months of full-time work; and
- (3) pass the cosmetology teacher's examination.

(b) The required six months' experience may be gained while a cosmetologist is enrolled in a teacher trainee course, but it must consist of experience in a ~~salon~~ cosmetic art shop.

(c) ~~(b)~~ This Rule applies to applicants who submit an application to be a cosmetology teacher on or after August 1, 1989, except those who were enrolled in a teacher training course on that date. The rules in effect until August 1, 1989 apply to applicants who were enrolled in a teacher training course on that date.

*Statutory Authority G.S. 88-23.*

**.0102 TEACHER TRAINING CURRICULUM (REPEALED)**

*Statutory Authority G.S. 88-23.*

**.0105 QUALIFICATIONS - MANICURIST TEACHERS**

(a) To be a manicurist teacher, an applicant must:

- (1) have a high school diploma or a high school graduation equivalency certificate;
- (2) be a registered manicurist in this State;
- (3) have either:
  - (A) practiced manicuring in a cosmetic art shop for a period equivalent to five years of full-time work; or
  - (B) completed a 320-hour teacher training course in manicuring as set forth in Rule 14L .0202(b) in an approved cosmetic art school and practiced manicuring in a cosmetic art shop for a period equivalent to six months of full-time work; and

- (4) pass the manicurist teacher's examination.
- (b) The required six months' experience may be gained while a manicurist is enrolled in a teacher trainee course, but it must consist of experience in a cosmetic art shop.

*Statutory Authority G.S. 88-23.*

**.0106 APPLICATION TO TAKE EXAMINATION**

(a) To apply to be a cosmetic art teacher, an applicant must apply to the Board on a form provided by the Board. The form requires the applicant to provide proof of the qualifications listed in either Rules .0101 or .0102 of this Section.

(b) The Board will not consider an application until the applicant submits all the information required by the application form.

(c) An applicant cannot take the cosmetic art teacher examination until the Board approves the applicant's application.

*Statutory Authority G.S. 88-23.*

**.0107 PASSING SCORE RE-EXAMINATION**

(a) An applicant must score at least 85 on each part of the appropriate teacher's examination to pass.

(b) An applicant who fails the examination twice may not take the examination again until the applicant takes additional cosmetology or manicurist courses or takes other steps to increase the likelihood that the applicant will pass the examination.

(c) The Board determines the adequacy of steps taken by an applicant pursuant to Paragraph (b) on a case-by-case basis, taking into consideration the amount by which the applicant failed the examination and other relevant factors.

*Statutory Authority G.S. 88-23.*

**.0108 TEACHER TRAINEE NOTEBOOK**

Two lesson plans must be written from a standard textbook at the examination site.

*Statutory Authority G.S. 88-23.*

**SECTION .0200 - TEACHER PROGRAM AND CURRICULUM**

**.0202 APPLICATION TO BE COSMETOLOGY TEACHER (REPEALED)**

*Statutory Authority G.S. 88-23.*

**.0204 PASSING SCORE FOR TEACHER'S EXAM AND RETAKING FAILED EXAM (REPEALED)**



Statutory Authority G.S. 88-23.

**.0207 TEACHER TRAINEE NOTEBOOK  
(REPEALED)**

Statutory Authority G.S. 88-23.

**.0208 SUPERVISION OF COSMETIC ART  
TEACHER TRAINEE**

(a) A cosmetology cosmetic art teacher trainee must be supervised by a cosmetology cosmetic art teacher at all times when the trainee is at a cosmetology cosmetic art school.

(b) Notwithstanding Paragraph (a) of this Rule, a manicurist teacher may not supervise a cosmetologist teacher trainee with regard to any cosmetic art other than manicuring as defined in Rule 14A .0101(8).

(c) Violation of this Rule is just cause to revoke the Board's approval of the cosmetology cosmetic art school's teacher trainee program for a period of one year.

Statutory Authority G.S. 88-23.

**.0209 TIME REQUIREMENTS**

(a) A cosmetology cosmetic art teacher trainee program may be a full-time program or a part-time program. A cosmetology cosmetic art teacher trainee, however, may not receive credit for more than eight hours per day.

(b) The cosmetology cosmetic art school in which the teacher trainee is enrolled must keep a record of the hours a trainee earns each day. The record of hours is subject to inspection by the Board.

Statutory Authority G.S. 88-23.

**.0210 EFFECT ON STUDENT-TEACHER RATIO**

A student who is a cosmetology cosmetic art teacher trainee need not be counted as a student in computing the allowable student-teacher ratio set by Rule 14G .0013. of Subchapter 14G. However, a cosmetology cosmetic art school however, must have at least one cosmetology cosmetic art teacher for every five teacher trainees, and a cosmetology cosmetic art school may not count a teacher trainee as a cosmetology cosmetic art teacher in computing the allowable student-teacher ratio set by Rule 14G .0013.

Statutory Authority G.S. 88-23.

**.0211 WORK ON PUBLIC PROHIBITED**

A cosmetology cosmetic art teacher trainee may not perform work on the public while clinical

services on a patron at the cosmetology cosmetic art school.

Statutory Authority G.S. 88-23.

**.0214 FEE**

An applicant for a cosmetology cosmetic art teacher's license must pay a fee of ten dollars (\$10.00) for the license. The Board will not issue a license until this fee is paid.

Statutory Authority G.S. 88-21; 88-23.

**.0215 TEACHER'S MANUAL AND  
SUPERVISION**

(a) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time.

(b) Teacher trainees may present lessons they have prepared under the direct supervision of a licensed cosmetic art teacher as long as the supervising teacher is present in the classroom.

Statutory Authority G.S. 88-23.

**.0216 TEACHER TRAINING CURRICULUM**

(a) To meet the approval of the Board, a cosmetologist teacher training course must consist of at least 800 hours of instruction in theory and practical application, divided as follows:

(1) One hundred fifty hours of instruction on methods of teaching and the laws governing cosmetology, to include the following topics:

- (A) instruction in teaching techniques;
- (B) instruction in preparing lesson plans;
- (C) instruction in preparing class lectures and presentations;
- (D) instruction in preparing examinations; and
- (E) Chapter 88 of the North Carolina General Statutes and the Rules of the Board.

(2) Six hundred fifty hours of practice teaching, to include the following:

- (A) conducting theory classes from prepared lesson plans;
- (B) preparing and giving examinations; and
- (C) giving practical demonstrations.

(b) To meet the approval of the Board, a manicurist teacher training course must extend over a period of at least three months and include 320 hours of training as follows:

- (1) lesson planning and presentations - 50 hours;

## *PROPOSED RULES*

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- (2) testing - 25 hours;
- (3) education - 50 hours (vocabulary development);
- (4) demonstration and lecturing - 25 hours;
- (5) teaching aides - 15 hours;
- (6) classroom management - 25 hours;
- (7) rules and law - 5 hours;

- (8) basic teaching methods - 60 hours;
- (9) teaching principles - 30 hours;
- (10) personality and teaching - 25 hours; and
- (11) chemical usage - 10 hours.

*Statutory Authority G.S. 88-23.*

*The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.*

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Rules filed with changes are noted with \*\* Amended, \*\* Adopted. Please contact this office if you have any questions.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.*

*Upon request from the adopting agency, the text of rules will be published in this section.*

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as \* Correction. These changes do not change the effective date of the rule.*

**TITLE 5  
DEPARTMENT OF CORRECTION**

**CHAPTER 2 - DIVISION OF PRISONS**

**SUBCHAPTER 2F - CUSTODY AND SECURITY**

**SECTION .1000 - CONTROL OF INMATES**

**.1001 CONTROL PROCEDURE**

(a) Control Center. Terminal access to divisional record and data systems should be established and maintained in the control center at each divisional facility.

(b) Control Board. A control board should be maintained which specifies the housing and primary job or program assignment for each inmate assigned to the unit. The control board may consist of either roster listings from the Inmate Assignment System and/or copies of the inmate identification card.

(c) Operational Counts. A master operational count record should be maintained in the control center of each unit showing the assignment categories and housing locations of the inmate population.

(d) Head Counts. Counts should be performed at least two times daily in all units and institutions.

(e) Control of Assigned Inmates. In addition to routine head counts, each officer assigned to a particular detail shall maintain a continuous and frequent check of inmates under his supervision to ensure an accurate count.

*History Note: Statutory Authority G.S. 148-4; 148-11;  
Eff. July 1, 1976;  
Amended Eff. November 1, 1990.*

**.1002 RESPONSIBILITY**

(a) Supervisory Responsibility. An officer charged with custodial supervision of inmates outside the confines of a prison facility shall be responsible for an accurate count prior to releasing them to his replacement. The replacement correctional officer shall insure the accuracy of the count prior to assuming responsibility. No officer shall accept custody of a group of inmates outside prison confines until he has counted them, learned where they are permitted to go, what they are to do while under his supervision, and when his responsibility ends. When an officer takes charge of the work detail, he shall make sure that each inmate in the group is physically able to perform the assigned work. Inmates who are ill will be referred to the unit medical staff for treatment.



(b) Divisional Record Procedures. Changes in counts caused by receipt, release, transfer or escape of inmates will be documented as soon as practicable after they occur through the Inmate Assignment System. These individual agent of the Director of Prisons and within the territorial limits of the State of North Carolina, the custodial agent shall be responsible for including the inmate or inmates in these daily counts by the control center.

*History Note: Statutory Authority G.S. 148-4; 148-11;  
Eff. July 1, 1976;  
Amended Eff. November 1, 1990.*

**TITLE 10  
DEPARTMENT OF HUMAN RESOURCES**

**CHAPTER 45 - NORTH CAROLINA DRUG COMMISSION**

**SUBCHAPTER 45H - DRUG TREATMENT FACILITIES**

**SECTION .0200 - SCHEDULES OF CONTROLLED SUBSTANCES**

**.0202 SCHEDULE I**

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated listed in this Rule. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth opposite it.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)	9815
(2) Acetylmethadol	9601
(3) Allylprodine	9602
(4) Alphacetylmethadol	9603
(5) Alphameprodine	9604
(6) Alphamethadol	9605
(7) Alpha-methylfentanyl (N-[1-(alpha -methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)	9832
(9) Benzethidine	9606
(10) Betacetylmethadol	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-Nphenylpropanamide)	9831
(13) Betameprodine	9608
(14) Betamethadol	9609
(15) Betaprodine	9611
(16) Clonitazene	9612
(17) Dextromoramide	9613
(18) Diampromide	9615
(19) Diethylthiambutene	9616
(20) Difenoxin	9168
(21) Dimenoxadol	9617
(22) Dimpheptanol	9618
(23) Dimethylthiambutene	9619
(24) Dioxaphetyl butyrate	9621
(25) Dipipanone	9622

(26) Ethylmethylthiambutene	9623
(27) Etonitazene	9624
(28) Etoxeridine	9625
(29) Furethidine	9626
(30) Hydroxypethidine	9627
(31) Ketobemidone	9628
(32) Levomoramide	9629
(33) Levophenacymorphan	9631
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)	9813
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl) ethyl-4-piperidiny)]-N-phenylpropanamide)	9833
(36) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP)	9661
(37) 1-(2-phenethyl)-4-phenyl-4-acetoxy-piperidine (PEPAP)	9663
(38) Morpheridine	9632
(39) N-[1-(2-thienyl) methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers	9834
(40) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers	9818
(41) Noracymethadol	9633
(42) Norleyorphanol	9634
(43) Normethadone	9635
(44) Norpipanone	9636
(45) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]-propanamide)	9812
(46) Phenadoxone	9637
(47) Phenampromide	9638
(48) Phenomorphan	9647
(49) Phenoperidine	9641
(50) Piritramide	9642
(51) Proheptazine	9643
(52) Properidine	9644
(53) Propiram	9649
(54) Racemoramide	9645
(55) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidiny]-propanamide)	9835
(56) Tilidine	9750
(57) Trimeperidine	9646

(e) Opium Derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Acetyldihydrocodeine	9051
(3) Benzylmorphine	9052
(4) Codeine methylbromide	9070
(5) Codeine-N-Oxide	9053
(6) Cyprenorphine	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Etorphine (except hydrochloride salt)	9056
(10) Heroin	9200
(11) Hydromorphenol	9301
(12) Methyl-desorphine	9302
(13) Methyl-dihydromorphine	9304
(14) Morphine methylbromide	9305
(15) Morphine methylsulfonate	9306

(16) Morphine-N-Oxide	9307
(17) Myrophine	9308
(18) Nicocodeine	9309
(19) Nicomorphine	9312
(20) Normorphine	9313
(21) Pholcodine	9314
(22) Thebacon	9315
(23) Drotebanol	9335

(d) Hallucinogenic Substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this Paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 3,4-methylenedioxy amphetamine	7400
(2) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA)	7404
(3) 5-methoxy-3,4-methylenedioxy-amphetamine	7401
(4) 3,4,5-trimethoxy amphetamine	7390
(5) Bufotenine Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.	7433
(6) Diethyltryptamine Some trade and other names: N,N-Diethyltryptamine; DET	7434
(7) Dimethyltryptamine Some trade and other names: DMT	7435
(8) 3,4-methylenedioxymethamphetamine (MDMA) its optical, positional and geometric isomers, salts, and salts of isomers	7405
(9) 4-methyl-2,5-dimethoxy-amphetamine Some trade or other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM" and "STP."	7395
(10) Ibogaine Some trade and other names: 7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2- methoxy-6,9-methano-5H-pyrido (1,2':1,2) azepino (5,4-b) indole; tabernanthe iboga.	7260
(11) Lysergic acid diethylamide Some trade or other names: LSD	7315
(12) Mescaline	7381
(13) N-ethyl-1-phenylcyclohexylamine	7455
(14) 1-(1-phenylcyclohexyl)pyrrolidine	7458
(15) Parahexyl Some trade or other names: 3-11exyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-611-dibenzo[b,d]pyran; Synhexyl.	7374
(16) Peyote -- meaning all parts of the plant presently classified botanically as	



Lophophora Williamsii Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seed or extracts.	7415
(17) N-ethyl-3-piperidyl benzilate	7482
(18) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine, and N-hydroxy MDA)	7402
(19) N-methyl-3-piperidyl benzilate	7484
(20) Psilocybin	7437
(21) Psilocyn	7438
(22) 2,5-dimethoxyamphetamine Some trade and other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.	7396
(23) 4-bromo-2,5-dimethoxy-amphetamine Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA.	7391
(24) 4-methoxyamphetamine Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA.	7411
(25) Thiophene analog of phencyclidine Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP, TCP.	7470
(26) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine Some other names: TCPy	7473
(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:	
(1) mecloqualone	2572
(2) methaqualone	2565
(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:	
(1) Fenethylline	1503
(2) (+) cis-4-methylaminorex [(+) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine] (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline)	1590
(3) N,N-dimethylamphetamine [also known as N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine]	1480
(4) N-ethylamphetamine	1475

History Note: Statutory Authority G.S. 90-88; 90-89; 143B-147;

Eff. June 30, 1978;

Amended Eff. November 1, 1990; October 1, 1990; August 1, 1990; December 1, 1989.

TITLE 19A  
DEPARTMENT OF TRANSPORTATION

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3D - LICENSE AND THEFT SECTION

SECTION .0800 - SAFETY RULES AND REGULATIONS

**.0801 SAFETY OF OPERATION AND EQUIPMENT**

(a) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 - formerly Parts 290-298 - and amendments thereto) shall apply to all for-hire motor carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of the State of North Carolina, whether common carriers, contract carriers or exempt carriers.

(b) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 and amendments thereto) shall also apply to all private motor carriers engaged in the transportation of hazardous waste and radioactive waste in interstate and intrastate commerce over the highways of the State of North Carolina.

(c) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 and amendments thereto) shall apply to all private motor carrier vehicles on the highways of the State of North Carolina used in commerce to transport cargo:

- (1) if such vehicle has a gross vehicle weight rating of 10,000 pounds or more; or
- (2) if such vehicle is used in the transportation of materials found to be hazardous in accordance with the Hazardous Materials Transportation Act as amended in Title 49, Code of Federal Regulations.

Provided, Part 396.17 shall not apply to vehicles operated by farmers or their employees solely within North Carolina.

An intrastate motor carrier driver may not drive more than 12 hours following eight consecutive hours off duty; or for any period after having been on duty 16 hours following eight consecutive hours off duty; or after having been on duty 70 hours in seven consecutive days; or more than 80 hours in eight consecutive days. An intrastate driver will be determined by his previous seven days of operation.

Persons who otherwise qualify medically to operate a commercial motor vehicle within the State of North Carolina will be exempt from provisions of Part 391.11(b)(1) and Part 391.41(b)(1) through (11) and therefore will be authorized for intrastate operation if licensed prior to March 30, 1992, are approved by an Exemption Review Officer appointed by the Commissioner of Motor Vehicles and meet all other requirements of this Section. These drivers shall continue to be exempt upon completion of a biennial medical examination indicating the condition has not worsened or no new disqualifying conditions have been diagnosed and upon continued approval of an Exemption Review Officer.

*History Note: Statutory Authority G.S. 20-384;*

*Eff. December 1, 1983;*

*Amended Eff. November 1, 1990; September 1, 1990; November 1, 1988; July 1, 1988.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

OCTOBER 1990

AGENCY				ACTION TAKEN
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>				
4	NCAC	3C	.0201 - .0202	** Amended
			.0901	** Amended
			.1301	** Amended
		19L	.0501	Amended
<u>DEPARTMENT OF CORRECTION</u>				
5	NCAC	2E	.1501	Amended
		2F	.1801 - .1802	Amended
			.1803 - .1809	Adopted
<u>DEPARTMENT OF HUMAN RESOURCES</u>				
10	NCAC	3J	.1501 - .1503	Repealed
			.2801	** Adopted
			.3502	Amended
		3U	.0102	** Amended
			.2601	** Amended
			.2606 - .2607	** Amended
		14C	.1117	** Amended
			.1135	** Amended
			.1145	** Amended
			.1147	** Amended
		19G	.0502	** Amended
		21A	.0301	Amended
			.0401	Amended
		21B	.0104	Amended
		29B	.0003	Amended
		29C	.0002	Amended
		39A	.0001 - .0003	Repealed
		39C	.0001 - .0005	Repealed
			.0007 - .0008	Repealed
			.0011	Repealed
		39D	.0108	** Adopted
			.0201 - .0209	** Adopted
			.0301 - .0303	** Adopted
			.0401 - .0410	** Adopted
		45H	.0202	** Amended
		49B	.0311	Repealed
			.0312	** Amended
			.0313	Repealed
			.0314	Adopted
		49C	.0101	** Amended
		49D	.0001 - .0003	Repealed
		49F	.0001 - .0004	** Adopted
		50B	.0402	Amended



DEPARTMENT OF INSURANCE

11	NCAC	6A	.0101	Amended
			.0212	Amended
			.0215 - .0216	Amended
			.0219	Amended
			.0221	Amended
			.0223	Amended
			.0236	Amended
			.0301	Amended
			.0304 - .0306	** Amended
			.0401	Amended
			.0402 - .0405	Amended
			.0406 - .0407	Repealed
			.0408	Amended
			.0410	** Amended
			.0412 - .0413	** Amended
			.0414 - .0415	Adopted
			.0501 - .0503	Amended
			.0505 - .0506	Amended
			.0601 - .0602	** Amended
			.0701	** Amended
			.0703 - .0705	** Amended
			.0706	Repealed
		10	.1103 - .1104	** Amended
			.1105	** Adopted
		11B	.0601 - .0606	** Adopted
			.0608 - .0609	** Adopted
			.0611 - .0614	** Adopted

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	2H	.0105	** Amended
			.0205	** Amended
			.0211	Amended
			.1201 - .1202	Adopted
			.1204 - .1205	Adopted
		2L	.0109	Amended
		13A	.0001 - .0003	Amended
			.0004 - .0014	Amended
		13B	.1101 - .1112	** Adopted
			.1201 - .1207	** Adopted
			.1301	Adopted
		16A	.0106	Amended
			.0108 - .0110	Amended
			.0202 - .0203	** Amended
			.0209	** Amended
		18A	.1961	** Amended
			.2108	Repealed
			.2117	** Adopted
			.2609	** Amended
		18C	.1522	Amended
		19A	.0201	Amended
			.0401	** Amended
			.0701	** Adopted
		19B	.0101	** Amended
			.0333	** Amended
			.0354	Amended

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**FINAL RULES**

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		.0503	** Amended
19I		.0101 - .0105	** Adopted
21D		.0402	Amended
		.0406	Amended
		.0501	Amended
		.0503	Amended
		.0706	Amended
24A		.0202	** Amended

**DEPARTMENT OF PUBLIC EDUCATION**

16	NCAC	6C	.0403	Amended
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**DEPARTMENT OF REVENUE**

17	NCAC	7B	.0101	Amended
			.0104 - .0105	Amended
			.0124	Amended
			.0707	Amended
			.1906	Amended
			.2105	Amended
			.2606	Amended
			.3201	Amended
			.3203	Amended
			.4607 - .4608	Repealed
			.4613 - .4614	Amended
			.4619	Adopted
			.4716	Amended
			.5401 - .5402	Amended
			.5406	Amended
			.5407	Repealed
			.5409 - .5410	Amended
			.5413	Repealed
			.5441	Repealed
			.5444	Repealed
			.5449 - .5458	Adopted

**SECRETARY OF STATE**

18	NCAC	6	.1307	** Amended
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**DEPARTMENT OF TRANSPORTATION**

19A	NCAC	2D	.0603	Amended
			.0607	Amended
			.0622	Amended
			.0624	Amended
			.0629	Amended
			.0632	Amended

**BOARD OF COSMETIC ART EXAMINERS**

21	NCAC	14I	.0304	Amended
		14J	.0107	Adopted
			.0206	Amended

**BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS**

21	NCAC	18B	.1101 - .1108	Adopted
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BOARD OF MEDICAL EXAMINERS

21	NCAC	32H	.0402 - .0403	** Amended
			.0406	** Amended

BOARD OF NURSING

21	NCAC	36	.0218	Amended
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BOARD OF PHARMACY

21	NCAC	46	.1317	Amended
			.1503	** Amended
			.1807	** Adopted
			.2001	Amended
			.2008	Amended
			.2502	Amended
			.2601 - .2607	** Adopted
			.2701 - .2704	** Adopted
			.2801 - .2808	** Adopted

BOARD OF PRACTICING PSYCHOLOGISTS

21	NCAC	54	.1605	Temp. Amended Expires 04-01-91
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*The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).*

## **ECONOMIC AND COMMUNITY DEVELOPMENT**

### **Banking Commission**

- |  |                               |
|--|-------------------------------|
| <i>4 NCAC 3C .0201 - Establishment of Branch and Limited Svcs Facilities</i> | <i>ARRC Objection 7/19/90</i> |
| <i>Agency Revised Rule</i>   | <i>Obj. Removed 8/16/90</i>   |
| <i>4 NCAC 3C .0202 - Branch Closing</i>                                      | <i>ARRC Objection 7/19/90</i> |
| <i>Agency Revised Rule</i>   | <i>Obj. Removed 8/16/90</i>   |
| <i>4 NCAC 3C .0901 - Books and Record</i>                                    | <i>ARRC Objection 7/19/90</i> |
| <i>Agency Revised Rule</i>   | <i>Obj. Removed 8/16/90</i>   |
| <i>4 NCAC 3C .1301 - Annual Vacation</i>                                     | <i>ARRC Objection 7/19/90</i> |
| <i>Agency Revised Rule</i>   | <i>Obj. Removed 8/16/90</i>   |

### **Community Assistance**

- |                                      |                               |
|--------------------------------------|-------------------------------|
| <i>4 NCAC 19L .0501 - Definition</i> | <i>ARRC Objection 7/19/90</i> |
| <i>Agency Revised Rule</i>           | <i>Obj. Removed 8/16/90</i>   |

### **Credit Union Division**

- |   |                               |
|---|-------------------------------|
| <i>4 NCAC 6C .0203 - Fields of Membership</i> | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>                    | <i>Obj. Removed 9/20/90</i>   |

## **ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

### **Environmental Health**

- |   |                               |
|---|-------------------------------|
| <i>15A NCAC 18A .2117 - Water Sanitation and Quality</i>                    | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>  | <i>Obj. Removed 8/23/90</i>   |
| <i>15A NCAC 18A .2609 - Refrigeration: Thawing: and Preparation of Food</i> | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>  | <i>Obj. Removed 8/23/90</i>   |
| <i>15A NCAC 18C .1529 - Point-of-Entry and Other Treatment Devices</i>      | <i>ARRC Objection 6/21/90</i> |
| <i>Agency Revised Rule</i>  | <i>Obj. Removed 7/19/90</i>   |

### **Environmental Management**

- |  |                               |
|--|-------------------------------|
| <i>15A NCAC 2H .1203 - Public Notice</i> | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>               | <i>Obj. Removed 9/20/90</i>   |

### **Marine Fisheries**

- |   |                               |
|---|-------------------------------|
| <i>15A NCAC 3C .0311 - Cancellation</i>                           | <i>ARRC Objection 9/20/90</i> |
| <i>15A NCAC 3N .0001 - Scope and Purpose</i>                      | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>  | <i>Obj. Removed 9/20/90</i>   |
| <i>15A NCAC 3O .0203 - Shellfish Lease Application Processing</i> | <i>ARRC Objection 8/16/90</i> |
| <i>Agency Revised Rule</i>  | <i>Obj. Removed 9/20/90</i>   |

### **Solid Waste Management**

<i>15A NCAC 13B .1003 - Eligible Purposes</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/20/90</i>
<i>15A NCAC 13B .1005 - Priority Factors</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/20/90</i>
<i>15A NCAC 13B .1104 - General Conditions</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/23/90</i>
<i>15A NCAC 13B .1105 - Permit Required</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/23/90</i>
<i>15A NCAC 13B .1107 - Scrap Tire Collection Site Operational Reqmnts</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/23/90</i>

Wildlife Resources Commission

<i>15A NCAC 10H .0302 - Minimum Standards</i>	<i>ARRC Objection 9/20/90</i>
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**HUMAN RESOURCES**

AFDC

<i>10 NCAC 49C .0101 - Eligibility for Coverage</i>	<i>ARRC Objection 7/19/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/16/90</i>

Facility Services

<i>10 NCAC 3R .2113 - Definitions</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/21/90</i>
<i>10 NCAC 3R .2115 - Need for Services</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/21/90</i>

Governor Morehead School

<i>10 NCAC 21A .0301 - Eligibility</i>	<i>ARRC Objection 7/19/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/16/90</i>

Youth Services

<i>10 NCAC 44B .0504 - Medical Care</i>	<i>ARRC Objection 7/19/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/16/90</i>
<i>10 NCAC 44B .0506 - Room Restriction or Confinement</i>	<i>ARRC Objection 7/19/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 8/16/90</i>

**INSURANCE**

Agent Services Division

<i>11 NCAC 6A .0702 - Prelicensing Education Schools</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/20/90</i>

Financial Evaluation Division

<i>11 NCAC 11B .0607 - Application - Employers</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Returned Rule Without Change</i>	<i>9/20/90</i>
<i>11 NCAC 11B .0610 - Application - Groups</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Returned Rule Without Change</i>	<i>9/20/90</i>

**LICENSING BOARDS AND COMMISSIONS**

## ARRC OBJECTIONS

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### Pharmacy

21 NCAC 46 .1503 - Experience in Pharmacy  
Agency Revised Rule

ARRC Objection 8/16/90  
Obj. Removed 8/23/90

### Physical Therapy

21 NCAC 48C .0102 - Responsibilities  
21 NCAC 48C .0501 - Exemption for Students

ARRC Objection 9/20/90  
ARRC Objection 9/20/90

## PUBLIC EDUCATION

### Elementary and Secondary Education

16 NCAC 6C .0312 - Certificate Suspension and Revocation  
Agency Revised Rule

ARRC Objection 8/16/90  
Obj. Removed 9/20/90

16 NCAC 6D .0105 - Use of School Day  
Objection Reconsidered and Failed  
Clincher Motion Passed  
Agency Filed Rule for Codification in the NCAC

ARRC Objection 6/21/90  
7/19/90  
9/28/90

## SECRETARY OF STATE

### Corporations Division

18 NCAC 4 .0101 - Location and Hours	ARRC Objection 6/21/90
18 NCAC 4 .0102 - Administration and Functions	ARRC Objection 6/21/90
18 NCAC 4 .0205 - Overpayment	ARRC Objection 6/21/90
18 NCAC 4 .0206 - Documents Not Specifically Provided For	ARRC Objection 6/21/90
18 NCAC 4 .0302 - Execution	ARRC Objection 6/21/90
18 NCAC 4 .0303 - Rejection	ARRC Objection 6/21/90
18 NCAC 4 .0305 - Corrective Filings-Nonprofit Corp/Limited Partnerships	ARRC Objection 6/21/90
18 NCAC 4 .0306 - Articles of Incorporation - Nonprofit Corporations	ARRC Objection 6/21/90
18 NCAC 4 .0307 - Application For Reservation of Corporate Name	ARRC Objection 6/21/90
18 NCAC 4 .0308 - Registered Office and Registered Agent	ARRC Objection 6/21/90
18 NCAC 4 .0311 - Art of Merger/Share Exch  G.S. 55-11-07/55A-42.1	ARRC Objection 6/21/90
18 NCAC 4 .0312 - Appl For Cert of Authority Foreign Prof Corporation	ARRC Objection 6/21/90
18 NCAC 4 .0313 - Filing Merger Involving Foreign Corporation	ARRC Objection 6/21/90
18 NCAC 4 .0314 - Filing Evidence of Dissolution Foreign Nonprofit Corp	ARRC Objection 6/21/90
18 NCAC 4 .0316 - Form for Annual Report	ARRC Objection 6/21/90
18 NCAC 4 .0401 - Documents	ARRC Objection 6/21/90
18 NCAC 4 .0402 - Cert of Facts Certificate of Exit Authorization	ARRC Objection 6/21/90
18 NCAC 4 .0501 - General	ARRC Objection 6/21/90
18 NCAC 4 .0502 - Words Prohibited in Addition to Statutory Prohibitions	ARRC Objection 6/21/90
18 NCAC 4 .0503 - Deceptively Similar and Distinguishable Names	ARRC Objection 6/21/90
18 NCAC 4 .0504 - Filing Fictitious/Assumed Name Foreign Corporation	ARRC Objection 6/21/90
No Response Received From Agency	7/19/90
Response Received From Agency	Obj. Removed 8/16/90

### Securities Division

18 NCAC 6 .1210 - Securities Exchgs Auto Quotation Sys Approve Admin	ARRC Objection 6/21/90
No Response Received From Agency	7/19/90
Response Received From Agency	Obj. Removed 8/16/90

## STATE PERSONNEL

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## ARRC OBJECTIONS

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25 NCAC 1B .0107 - Personnel Commission Meetings	ARRC Objection 9 20 90
25 NCAC 1B .0108 - Commission Staff	ARRC Objection 9 20 90
25 NCAC 1B .0109 - Commission Actions	ARRC Objection 9 20 90
25 NCAC 1B .0110 - Motions	ARRC Objection 9 20 90
25 NCAC 1B .0111 - Voting	ARRC Objection 9 20 90
25 NCAC 1B .0112 - Abstention	ARRC Objection 9 20 90
25 NCAC 1B .0113 - Duties of the Chairman	ARRC Objection 9 20 90
25 NCAC 1B .0114 - Order of Business	ARRC Objection 9 20 90
25 NCAC 1B .0115 - Special Meetings	ARRC Objection 9 20 90
25 NCAC 1B .0116 - Duties of Chairman Between Meetings of the Comm	ARRC Objection 9 20 90
25 NCAC 1B .0117 - Standing Special Committees	ARRC Objection 9 20 90
25 NCAC 1B .0118 - Minutes	ARRC Objection 9 20 90
25 NCAC 1B .0119 - Notice of Commission Action	ARRC Objection 9 20 90
25 NCAC 1B .0120 - Appointment of Vice-Chairman	ARRC Objection 9 20 90
25 NCAC 1L .0201 - Purpose	ARRC Objection 9 20 90
25 NCAC 1L .0202 - Policy	ARRC Objection 9 20 90
25 NCAC 1L .0206 - Anti-Discrimination	ARRC Objection 9 20 90
Agency Revised Rule	Obj. Removed 9 21 90
25 NCAC 1L .0207 - Testing and Examination	ARRC Objection 9 20 90
Agency Revised Rule	Obj. Removed 9 21 90

### STATE TREASURER

#### Local Government Commission

20 NCAC 3 .1003 - Petition for Hearing	ARRC Objection 9 20 90
Agency Revised Rule	Obj. Removed 9 20 90
20 NCAC 3 .1004 - Hearing Officer	
Agency Withdrew Rule	9 20 90

*This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.*

**10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE**

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DHR 0296).

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
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